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LAW DEPARTMENT

NOTIFICATION

The 8th June 2009

No. 6768—I-Legis.-10/2009-L.—The following Acts of Parliament which are assented to by the President on the 7th January 2009 and published by the Government of India, Ministry of Law and Justice (Legislative Department) in the *Gazette of India*, Extraordinary, Part-II, Section-I, dated the 9th January 2009 are hereby republished for general information.

By order of the Governor

B. K. NAYAK

Principal Secretary to Government

Assented to on the 7th January 2009

THE CONSTITUTION (SCHEDULED TRIBES) (UNION TERRITORIES) ORDER (AMENDMENT) ACT, 2008 (CENTRAL ACT NO. 2 OF 2009)

*An Act further to amend the Constitution (Scheduled Tribes)
(Union Territories) Order, 1951.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Scheduled Tribes) (Union Territories) Order (Amendment) Act, 2008.

Amendment of Part I of Constitution (Scheduled Tribes) (Union Territories) Order, 1951.

2. In the Schedule to the Constitution (Scheduled Tribes) (Union Territories) Order, 1951, in Part I.—*Lakshadweep*, the following proviso and *Explanation* shall be inserted at the end, namely :—

‘Provided that the children who are born to inhabitants of Lakshadweep in any other place in the mainland of India shall be deemed to be inhabitants born in the islands, if such children settle permanently in the islands.

Explanation.—The term “settle permanently” shall have the same meaning as defined under clause 3(1)(d) of the Lakshadweep Panchayats Regulation, 1994.’

Reg. 4 of 1994.

Assented to on the 7th January 2009

THE POST-GRADUATE INSTITUTE OF MEDICAL EDUCATION AND RESEARCH, CHANDIGARH (AMENDMENT) ACT, 2008
 (CENTRAL ACT No. 3 OF 2009)

An Act further to amend the Post-Graduate Institute of Medical Education and Research, Chandigarh Act, 1966.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

Short title and commencement of new Section for Section 23. **1. (1)** This Act may be called the Post-Graduate Institute of Medical Education and Research, Chandigarh (Amendment) Act, 2008.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution of new Section for Section 23. **2.** In the Post-Graduate Institute of Medical Education and Research, Chandigarh Act, 1966 (hereinafter referred to as the principal Act), for ^{51 of 1966.} Section 23, the following Section shall be substituted, namely :—

Grant of medical, dental or nursing degrees, diplomas, etc., by the Institute. **“23. Notwithstanding anything contained in any other law for the time being in force, the Institute shall have power to grant medical, dental or nursing degrees, diplomas and other academic distinctions and titles under this Act.”.**

Substitution of new section for Section 24. **3. For Section 24 of the principal Act, the following section shall be substituted, namely :—**

Recognition of medical, dental and nursing qualifications granted by the Institute. **“24. Notwithstanding anything contained in the Indian Medical Council Act, 1956, the Dentists Act, 1948 and the Indian Nursing Council Act, 1947, the Medical Dental or Nursing Degrees or Diplomas, as the case may be, granted by the Institute under this Act shall be recognised—**

(a) medical qualifications for the purpose of the Indian Medical Council Act, 1956 and shall be deemed to be included in the First Schedule to that Act ;

(b) dental qualifications for the purpose of the Dentists Act, 1948 and shall be deemed to be included in the Schedule to that Act; and

(c) nursing qualifications for the purpose of the Indian Nursing Council Act, 1947 and shall be deemed to be included in the Schedule to that Act.”.

THE GRAM NYAYALAYAS ACT, 2008

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THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

Assented to on the 7th January 2009
THE GRAM NYAYALAYAS ACT, 2008
(CENTRAL ACT No. 4 OF 2009)

An Act to provide for the establishment of Gram Nyayalayas at the grass-roots level for the purposes of providing access to justice to the citizens at their doorsteps and to ensure that opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Gram Nyayalayas Act, 2008.

(2) It extends to the whole of India except the State of Jammu & Kashmir, the State of Nagaland, the State of Arunachal Pradesh, the State of Sikkim and to the tribal areas.

Explanation.—In this sub-section, the expression “tribal areas” means the areas specified in Parts I, II, IIA and III of the Table below paragraph 20 of the Sixth Schedule to the Constitution within the State of Assam, the State of Meghalaya, the State of Tripura and the State of Mizoram, respectively.

(3) It shall come into force on such date as the Central Government may, by notification published in the Official Gazette, appoint; and different dates may be appointed for different States.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “Gram Nyayalaya” means a court established under sub-section (1) of Section 3;

(b) “Gram Panchayat” means an institution (by whatever name called) of self government constituted, at the village level, under Article 243B of the Constitution, for the rural areas;

(c) “High Court” means,—

(i) in relation to any State, the High Court for that State;

(ii) in relation to a Union Territory to which the jurisdiction of the High Court for a State has been extended by law, that High Court;

(iii) in relation to any other Union Territory, the highest Court of criminal appeal for that territory other than the Supreme Court of India;

(d) “notification” means a notification published in the Official Gazette and the expression “notified” shall be construed accordingly;

(e) “Nyayadhikari” means the presiding officer of a Gram Nyayalaya appointed under Section 5;

(f) "Panchayat at intermediate level" means an institution (by whatever name called) of self-Government constituted, at the intermediate level, under Article 243B of the Constitution, for the rural areas in accordance with the provisions of Part IX of the Constitution;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "Schedule" means the Schedule appended to this Act;

(i) "State Government", in relation to a Union Territory, means the administrator thereof appointed under Article 239 of the Constitution;

(j) words and expressions used herein and not defined but defined in the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1973 shall have the meanings respectively assigned to them in those Codes.

5 of 1908.
2 of 1974.

CHAPTER II

GRAM NYAYALAYA

Establishment of Gram Nyayalayas.

3. (1) For the purpose of exercising the jurisdiction and powers conferred on a Gram Nyayalaya by this Act, the State Government, after consultation with the High Court, may, by notification, establish one or more Gram Nyayalayas for every Panchayat at intermediate level or a group of contiguous Panchayats at intermediate level in a district or where there is no Panchayat at intermediate level in any State, for a group of contiguous Gram Panchayats.

(2) The State Government shall, after consultation with the High Court, specify, by notification, the local limits of the area to which the jurisdiction of a Gram Nyayalaya shall extend and may, at any time, increase, reduce or alter such limits.

(3) The Gram Nyayalayas established under sub-section (1) shall be in addition to the courts established under any other law for the time being in force.

Headquarters of Gram Nyayalaya.

4. The headquarters of every Gram Nyayalaya shall be located at the headquarters of the intermediate Panchayat in which the Gram Nyayalaya is established or such other place as may be notified by the State Government.

Appointment of Nyayadhikari.

5. The State Government shall, in consultation with the High Court, appoint a Nyayadhikari for every Gram Nyayalaya.

Qualifications for appointment of Nyayadhikari.

6. (1) A person shall not be qualified to be appointed as a Nyayadhikari unless he is eligible to be appointed as a Judicial Magistrate of the First Class.

(2) While appointing a Nyayadhikari, representation shall be given to the members of the Scheduled Castes, the Scheduled Tribes, women and such other classes or communities as may be specified by notification, by the State Government from time to time.

Salary,
allowances
and other
terms and
conditions
of service
of
Nyayadhikari.

Nyayadhikari
not to
preside
over
proceedings
in which he
is
interested.

Nyayadhikari
to hold
mobile
courts and
conduct
proceedings
in villages.

Seal of
Gram
Nyayalaya.

Jurisdiction
of Gram
Nyayalaya.

Criminal
jurisdiction.

7. The salary and other allowances payable to, and the other terms and conditions of service of, a Nyayadhikari shall be such as may be applicable to the Judicial Magistrate of the First Class.

8. The Nyayadhikari shall not preside over the proceedings of a Gram Nyayalaya in which he has any interest or is otherwise involved in the subject matter of the dispute or is related to any party to such proceedings and in such a case, the Nyayadhikari shall refer the matter to the District Court or the Court of Session, as the case may be, for transferring it to any other Nyayadhikari.

9. (1) The Nyayadhikari shall periodically visit the villages falling under his jurisdiction and conduct trial or proceedings at any place which he considers is in close proximity to the place where the parties ordinarily reside or where the whole or part of the cause of action had arisen :

Provided that where the Gram Nyayalaya decides to hold mobile court outside its headquarters, it shall give wide publicity as to the date and place where it proposes to hold mobile court.

(2) The State Government shall extend all facilities to the Gram Nyayalaya including the provision of vehicles for holding mobile court by the Nyayadhikari while conducting trial or proceedings outside its headquarters.

10. Every Gram Nyayalaya established under this Act shall use a seal of the Court in such form and dimensions as may be prescribed by the High Court with the approval of the State Government.

CHAPTER III

JURISDICTION, POWERS AND AUTHORITY OF GRAM NYAYALAYA

11. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or the Code of Civil Procedure, 1908 or any other law for the time being in force, the Gram Nyayalaya shall exercise both civil and criminal jurisdiction in the manner and to the extent provided under this Act. 2 of 1974. 5 of 1908.

12. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law for the time being in force, the Gram Nyayalaya may take cognizance of an offence on a complaint or on a police report and shall— 2 of 1974.

(a) try all offences specified in Part I of the First Schedule; and

(b) try all offences and grant relief, if any, specified under the enactments included in Part II of that Schedule.

(2) Without prejudice to the provisions of sub-section (1), the Gram Nyayalaya shall also try all such offences or grant such relief under the State Acts which may be notified by the State Government under sub-section (3) of Section 14.

Civil jurisdiction.

13. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law for the time being in force, and subject to sub-section (2), the Gram Nyayalaya shall have jurisdiction to—

5 of 1908.

(a) try all suits or proceedings of a civil nature falling under the classes of disputes specified in Part I of the Second Schedule;

(b) try all classes of claims and disputes which may be notified by the Central Government under sub-section (1) of Section 14 and by the State Government under sub-section (3) of the said Section.

(2) The pecuniary limits of the Gram Nyayalaya shall be such as may be specified by the High Court, in consultation with the State Government, by notification, from time to time.

Power to amend Schedules.

14. (1) Where the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, add to or omit any item in Part I or Part II of the First Schedule or Part II of the Second Schedule, as the case may be, and it shall be deemed to have been amended accordingly.

(2) Every notification issued under sub-section (1) shall be laid before each House of Parliament.

(3) If the State Government is satisfied that it is necessary or expedient so to do, it may, in consultation with the High Court, by notification, add to any item in Part III of the First Schedule or Part III of the Second Schedule or omit from it any item in respect of which the State Legislature is competent to make laws and thereupon the First Schedule or the Second Schedule, as the case may be, shall be deemed to have been amended accordingly.

(4) Every notification issued under sub-section (3) shall be laid before the State Legislature.

Limitation.

15. (1) The provisions of the Limitation Act, 1963 shall be applicable to the suits triable by the Gram Nyayalaya.

36 of 1963.

(2) The provisions of Chapter XXXVI of the Code of Criminal Procedure, 1973 shall be applicable in respect of the offences triable by the Gram Nyayalaya.

2 of 1974.

Transfer of pending proceedings.

16. (1) The District Court or the Court of Session, as the case may be, with effect from such date as may be notified by the High Court, may transfer all the civil or criminal cases, pending before the courts subordinate to it, to the Gram Nyayalaya competent to try or dispose of such cases.

(2) The Gram Nyayalaya may, in its discretion, either retry the cases or proceed from the stage at which it was transferred to it.

Duties of ministerial officers.

17. (1) The State Government shall determine the nature and categories of the officers and other employees required to assist a Gram Nyayalaya in the discharge of its functions and provide the Gram Nyayalaya with such officers and other employees as it may think fit.

(2) The salaries and allowances payable to, and other conditions of service of, the officers and other employees of the Gram Nyayalaya shall be such as may be prescribed by the State Government.

(3) The officers and other employees of a Gram Nyayalaya shall perform such duties as may, from time to time, be assigned to them by the Nyayadhikari.

CHAPTER IV

PROCEDURE IN CRIMINAL CASES

Overriding effect of Act in criminal trial.

18. The provisions of this Act shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Gram Nyayalaya; and for the purpose of the said provisions of the Code, the Gram Nyayalaya shall be deemed to be a Court of Judicial Magistrate of the First Class.

2 of 1974.

Gram Nyayalaya to follow summary trial procedure.

19. (1) Notwithstanding anything contained in sub-section (1) of Section 260 or sub-section (2) of Section 262 of the Code of Criminal Procedure, 1973, the Gram Nyayalaya shall try the offences in a summary way in accordance with the procedure specified in Chapter XXI of the said Code and the provisions of sub-section (1) of Section 262 and Sections 263 to 265 of the said Code, shall, so far as may be, apply to such trial.

2 of 1974.

(2) When, in the course of a summary trial, it appears to the Nyayadikari that the nature of the case is such that it is undesirable to try it summarily, the Nyayadikari shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided under the Code of Criminal Procedure, 1973.

2 of 1974.

Plea bargaining before Gram Nyayalaya.

20. A person accused of an offence may file an application for plea bargaining in Gram Nyayalaya in which such offence is pending trial and the Gram Nyayalaya shall dispose of the case in accordance with the provisions of Chapter XXIA of the Code of Criminal Procedure, 1973.

2 of 1974.

Conduct of cases in Gram Nyayalaya and legal aid to parties.

21. (1) For the purpose of conducting criminal cases in the Gram Nyayalaya on behalf of the Government, the provisions of Section 25 of the Code of Criminal Procedure, 1973 shall apply.

2 of 1974.

(2) Notwithstanding anything contained in sub-section (1), in a criminal proceeding before the Gram Nyayalaya, the complainant may engage an advocate of his choice at his expense to present the case of prosecution with the leave of the Gram Nyayalaya.

(3) The State Legal Services Authority, constituted under Section 6 of the Legal Services Authorities Act, 1987, shall prepare a panel of advocates and assign at least two of them to be attached to each Gram Nyayalaya so that their services may be provided by the Gram Nyayalaya to the accused unable to engage an advocate.

39 of 1987.

Pronouncement of judgment.

22. (1) The judgment in every trial shall be pronounced by the Nyayadikari in open court immediately after the termination of the trial or at any subsequent time, not exceeding fifteen days, of which notice shall be given to the parties.

(2) The Gram Nyayalaya shall deliver a copy of its judgment immediately to both the parties free of cost.

CHAPTER V

PROCEDURE IN CIVIL CASES

Overriding effect of Act in civil proceedings.

23. The provisions of this Act shall have effect notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Gram Nyayalaya; and for the purpose of the said provisions of the Code, the Gram Nyayalaya shall be deemed to be a civil court.

5 of 1908.

Special procedure in civil disputes.

24. (1) Notwithstanding anything contained in any other law for the time being in force, every suit, claim or dispute under this Act shall be instituted by making an application to the Gram Nyayalaya in such form, in such manner, and accompanied by such fee, not exceeding rupees one hundred, as may be prescribed by the High Court, from time to time, in consultation with the State Government.

(2) Where a suit, claim or dispute has been duly instituted, a summons shall be issued by the Gram Nyayalaya, accompanied by a copy of the application made under sub-section (1), to the opposite party to appear and answer the claim by such date as may be specified therein and the same shall be served in such manner as may be prescribed by the High Court.

(3) After the opposite party files his written statement, the Gram Nyayalaya shall fix a date for hearing and inform all the parties to be present in person or through their advocates.

(4) On the date fixed for hearing, the Gram Nyayalaya shall hear both the parties in regard to their respective contentions and where the dispute does not require recording of any evidence, pronounce the judgment; and in case where it requires recording of evidence, the Gram Nyayalaya shall proceed further.

(5) The Gram Nyayalaya shall also have the power,—

(a) to dismiss any case for default or to proceed *ex parte*; and

(b) to set aside any such order of dismissal for default or any order passed by it for hearing the case *ex parte*.

(6) In regard to any incidental matter that may arise during the course of the proceedings, the Gram Nyayalaya shall adopt such procedure as it may deem just and reasonable in the interest of justice.

(7) The proceedings shall, as far as practicable, be consistent with the interests of justice and the hearing shall be continued on a day-to-day basis until its conclusion, unless the Gram Nyayalaya finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded in writing.

(8) The Gram Nyayalaya shall dispose of the application made under sub-section (1) within a period of six months from the date of its institution.

(9) The judgment in every suit, claim or dispute shall be pronounced in open court by the Gram Nyayalaya immediately after conclusion of hearing or at any subsequent time, not exceeding fifteen days, of which notice shall be given to the parties.

(10) The judgment shall contain a concise statement of the case, the point for determination, the decision thereon and the reasons for such decision.

(11) A copy of the judgment shall be delivered free of cost to both the parties within three days from the date of pronouncement of the judgment.

Execution
of decrees
and orders
of Gram
Nyayalaya.

25. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the judgment passed by a Gram Nyayalaya shall be deemed to be a decree and it shall be executed by a Gram Nyayalaya as a decree of the civil court and for this purpose, the Gram Nyayalaya shall have all the powers of a civil court.

5 of 1908.

(2) The Gram Nyayalaya shall not be bound by the procedure in respect of execution of a decree as provided in the Code of Civil Procedure, 1908 and it shall be guided by the principles of natural justice.

5 of 1908.

(3) A decree may be executed either by the Gram Nyayalaya which passed it or by the other Gram Nyayalaya to which it is sent for execution.

Duty of
Gram
Nyayalaya
to make
efforts for
conciliation and
settlement
of civil
disputes.

26. (1) In every suit or proceeding, endeavour shall be made by the Gram Nyayalaya in the first instance, where it is possible to do so, consistent with the nature and circumstances of the case, to assist, persuade and conciliate the parties in arriving at a settlement in respect of the subject matter of the suit, claim or dispute and for this purpose, a Gram Nyayalaya shall follow such procedure as may be prescribed by the High Court.

(2) Where in any suit or proceeding, it appears to the Gram Nyayalaya at any stage that there is a reasonable possibility of a settlement between the parties, the Gram Nyayalaya may adjourn the proceeding for such period as it thinks fit to enable them to make attempts to effect such a settlement.

(3) Where any proceeding is adjourned under sub-section (2), the Gram Nyayalaya may, in its discretion, refer the matter to one or more Conciliators for effecting a settlement between the parties.

(4) The power conferred by sub-section (2) shall be in addition to, and not in derogation of, any other power of the Gram Nyayalaya to adjourn the proceeding.

Appointment
of
Conciliators.

27. (1) For the purposes of Section 26, the District Court shall, in consultation with the District Magistrate, prepare a panel consisting of the names of social workers at the village level having integrity for appointment as Conciliators who possess such qualifications and experience as may be prescribed by the High Court.

(2) The sitting fee and other allowances payable to, and the other terms and conditions for engagement of, Conciliators shall be such as may be prescribed by the State Government.

Transfer of
civil
disputes.

28. The District Court having jurisdiction may, on an application made by any party or when there is considerable pendency of cases in one Gram Nyayalaya or whenever it considers necessary in the interests of justice, transfer any case pending before a Gram Nyayalaya to any other Gram Nyayalaya within its jurisdiction.

CHAPTER VI

PROCEDURE GENERALLY

Proceedings
to be in the
official
language
of the
State.

29. The proceedings before the Gram Nyayalaya and its judgment shall, as far as practicable, be in one of the official languages of the State other than the English language.

Application
of Indian
Evidence
Act, 1872.

30. A Gram Nyayalaya may receive as evidence any report, statement, document, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872.

1 of 1872.

Record of
oral
evidence.

31. In suits or proceedings before a Gram Nyayalaya, it shall not be necessary to record the evidence of witnesses at length, but the Nyayadhikari, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of substance of what the witness deposes, and such memorandum shall be signed by the witness and the Nyayadhikari and it shall form part of the record.

Evidence of
formal
character
on affidavit.

32. (1) The evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exceptions, be read in evidence in any suit or proceeding before a Gram Nyayalaya.

(2) The Gram Nyayalaya may, if it thinks fit, and shall, on the application of any of the parties to the suit or proceeding, summon and examine any such person as to the facts contained in his affidavit.

CHAPTER VII

APPEALS

Appeal in
criminal
cases.

33. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law, no appeal shall lie from any judgment, sentence or order of a Gram Nyayalaya except as provided hereunder.

2 of 1974.

(2) No appeal shall lie where—

(a) an accused person has pleaded guilty and has been convicted on such plea;

(b) the Gram Nyayalaya has passed only a sentence of fine not exceeding one thousand rupees.

(3) Subject to sub-section (2), an appeal shall lie from any other judgment, sentence or order of a Gram Nyayalaya to the Court of Session.

(4) Every appeal under this Section shall be preferred within a period of thirty days from the date of judgment, sentence or order of a Gram Nyayalaya:

Provided that the Court of Session may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(5) An appeal preferred under sub-section (3) shall be heard and disposed of by the Court of Session within six months from the date of filing of such appeal.

(6) The Court of Session may, pending disposal of the appeal, direct the suspension of the sentence or order appealed against.

(7) The decision of the Court of Session under sub-section (5) shall be final and no appeal or revision shall lie from the decision of the Court of Session:

Provided that nothing in this sub-section shall preclude any person from availing of the judicial remedies available under Articles 32 and 226 of the Constitution.

Appeal in
civil cases.

34. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law, and subject to sub-section (2), an appeal shall lie from every judgment or order, not being an interlocutory order, of a Gram Nyayalaya to the District Court.

5 of 1908.

(2) No appeal shall lie from any judgment or order passed by the Gram Nyayalaya—

(a) with the consent of the parties;

(b) where the amount or value of the subject matter of a suit, claim or dispute does not exceed rupees one thousand;

(c) except on a question of law, where the amount or value of the subject matter of such suit, claim or dispute does not exceed rupees five thousand.

(3) Every appeal under this Section shall be preferred within a period of thirty days from the date of the judgment or order of a Gram Nyayalaya :

Provided that the District Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(4) An appeal preferred under sub-section (1) shall be heard and disposed of by the District Court within six months from the date of filing of the appeal.

(5) The District Court may, pending disposal of the appeal, stay execution of the judgment or order appealed against.

(6) The decision of the District Court under sub-section (4) shall be final and no appeal or revision shall lie from the decision of the District Court :

Provided that nothing in this sub-section shall preclude any person from availing of the judicial remedies available under Articles 32 and 226 of the Constitution.

CHAPTER VIII

MISCELLANEOUS

Assistance of police to Gram Nyayalayas. **35.** (1) Every police officer functioning within the local limits of jurisdiction of a Gram Nyayalaya shall be bound to assist the Gram Nyayalaya in the exercise of its lawful authority.

(2) Whenever the Gram Nyayalaya, in the discharge of its functions, directs a revenue officer or police officer or Government servant to provide assistance to the Gram Nyayalaya, he shall be bound to provide such assistance.

Nyayadhikaris and employees, etc., to be public servants. **36.** The Nyayadhikaris and the officers and other employees of the Gram Nyayalayas shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of Section 21 of the Indian Penal Code.

45 of 1860.

Inspection of Gram Nyayalayas. **37.** The High Court may authorise any judicial officer superior in rank to the Nyayadhikari to inspect the Gram Nyayalayas within his jurisdiction once in every six months or such other period as the High Court may prescribe and issue such instructions, as he considers necessary and submit a report to the High Court.

Power to remove difficulties. **38.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty :

Provided that no order shall be made under this Section after the expiry of a period of three years from the date of commencement of this Act.

(2) Every order made under this Section shall be laid, as soon as may be after it is made, before each House of Parliament.

Power of High Court to make rules. **39.** (1) The High Court may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and dimensions of the seal of the Gram Nyayalaya under Section 10;

(b) the form, the manner and the fee for institution of suit, claim or proceeding under sub-section (1) of Section 24;

(c) manner of service on opposite party under sub-section (2) of Section 24;

(d) procedure for conciliation under sub-section (1) of Section 26;

(e) qualifications and experience of Conciliators under sub-section (1) of Section 27;

(f) the period for inspection of Gram Nyayalayas under Section 37.

(3) Every notification issued by the High Court shall be published in the Official Gazette.

Power of
State
Government
to make
rules.

40. (1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Gram Nyayalayas under sub-section (2) of Section 17;

(b) the sitting fee and other allowances payable to, and the other terms and conditions for engagement of, Conciliators under sub-section (2) of Section 27.

(3) Every rule made by the State Government under this Act shall be laid as soon as may be after it is made, before the State Legislature.

THE FIRST SCHEDULE

(See Sections 12 and 14)

PART I

OFFENCES UNDER THE INDIAN PENAL CODE (45 OF 1860), ETC.

(i) offences not punishable with death, imprisonment for life or imprisonment for a term exceeding two years;

(ii) theft, under Section 379, Section 380 or Section 381 of the Indian Penal Code (45 of 1860), where the value of the property stolen does not exceed rupees twenty thousand;

(iii) receiving or retaining stolen property, under Section 411 of the Indian Penal Code (45 of 1860), where the value of the property does not exceed rupees twenty thousand;

(iv) assisting in the concealment or disposal of stolen property, under Section 414 of the Indian Penal Code (45 of 1860), where the value of such property does not exceed rupees twenty thousand;

(v) offences under Sections 454 and 456 of the Indian Penal Code (45 of 1860);

(vi) insult with intent to provoke a breach of the peace, under Section 504, and criminal intimidation, punishable with imprisonment for a term which may extend to two years, or with fine, or with both, under Section 506 of the Indian Penal Code (45 of 1860);

(vii) abetment of any of the foregoing offences;

(viii) an attempt to commit any of the foregoing offences, when such attempt is an offence.

PART II

OFFENCES AND RELIEF UNDER THE OTHER CENTRAL ACTS

- (i) any offence constituted by an act in respect of which a complaint may be made under Section 20 of the Cattle-trespass Act, 1871(1 of 1871);
- (ii) the Payment of Wages Act, 1936 (4 of 1936);
- (iii) the Minimum Wages Act, 1948 (11 of 1948);
- (iv) the Protection of Civil Rights Act, 1955 (22 of 1955);
- (v) order for maintenance of wives, children and parents under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974);
- (vi) the Bonded Labour System (Abolition) Act, 1976 (19 of 1976);
- (vii) the Equal Remuneration Act, 1976 (25 of 1976);
- (viii) the Protection of Women from Domestic Violence Act, 2005 (43 of 2005).

PART III

OFFENCES AND RELIEF UNDER THE STATE ACTS

(To be notified by the State Government)

THE SECOND SCHEDULE

(See Sections 13 and 14)

PART I

SUITS OF A CIVIL NATURE WITHIN THE JURISDICTION OF GRAM NAYALAYAS

(i) Civil Disputes :

- (a) right to purchase of property;
- (b) use of common pasture;
- (c) regulation and timing of taking water from irrigation channel.

(ii) Property Disputes :

- (a) village and farm houses (Possession);
- (b) water channels;
- (c) right to draw water from a well or tube well.

(iii) Other Disputes :

- (a) claims under the Payment of Wages Act, 1936 (4 of 1936);
- (b) claims under the Minimum Wages Act, 1948 (11 of 1948);
- (c) money suits either arising from trade transaction or money lending;
- (d) disputes arising out of the partnership in cultivation of land;
- (e) disputes as to the use of forest produce by inhabitants of Gram Panchayats.

PART II

CLAIMS AND DISPUTES UNDER THE CENTRAL ACTS NOTIFIED UNDER SUB-SECTION (1) OF SECTION 14 BY THE CENTRAL GOVERNMENT

(To be notified by the Central Government)

PART III

CLAIMS AND DISPUTES UNDER THE STATE ACTS NOTIFIED UNDER SUB-SECTION (3) OF SECTION 14 BY THE STATE GOVERNMENT (To be notified by the State Government)

Assented to on the 7th January 2009

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 2008

(CENTRAL ACT No. 5 OF 2009)

An Act further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

Short title
and
commencement.

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2008.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act.

Amendment
of
Section 2.

2. In Section 2 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), after clause (w), the following clause shall be inserted, namely:—

2 of 1974.

‘(wa) “victim” means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression “victim” includes his or her guardian or legal heir;’.

Amendment
of
Section 24.

3. In Section 24 of the principal Act, in sub-section (8), the following proviso shall be inserted, namely:—

“Provided that the Court may permit the victim to engage an advocate of his choice to assist the prosecution under this sub-section.”.

Amendment
of
Section 26.

4. In Section 26 of the principal Act, in clause (a), the following proviso shall be inserted, namely:—

“Provided that any offence under Section 376 and Sections 376A to 376D of the Indian Penal Code shall be tried as far as practicable by a Court presided over by a woman.”.

45 of 1860.

Amendment
of
Section 41.

5. In Section 41 of the principal Act,—

(i) in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) who commits, in the presence of a police officer, a cognizable offence;

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:—

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary—

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured,

and the police officer shall record while making such arrest, his reasons in writing.

(ba) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence;”;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Subject to the provisions of Section 42, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate.”.

Insertion of
new
Sections
41A, 41B,
41C and
41D.

6. After Section 41 of the principal Act, the following new Sections shall be inserted, namely:—

Notice of
appearance
before
police
officer.

“41A. (1) The police officer may, in all cases where the arrest of a person is not required under the provisions of sub-section (1) of Section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

(4) Where such person, at any time, fails to comply with the terms of the notice, it shall be lawful for the police officer to arrest him for the offence mentioned in the notice, subject to such orders as may have been passed in this behalf by a competent Court.

Procedure
of arrest
and duties
of officer
making
arrest.

41B. Every police officer while making an arrest shall—

(a) bear an accurate, visible and clear identification of his name which will facilitate easy identification;

(b) prepare a memorandum of arrest which shall be—

(i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made;

(ii) countersigned by the person arrested; and

(c) inform the person arrested, unless the memorandum is attested by a member of his family, that he has a right to have a relative or a friend named by him to be informed of his arrest.

Control
room at
districts.

41C. (1) The State Government shall establish a police control room—

(a) in every district; and

(b) at State level.

(2) The State Government shall cause to be displayed on the notice board kept outside the control rooms at every district, the names and addresses of the persons arrested and the name and designation of the police officers who made the arrests.

(3) The control room at the Police Headquarters at the State level shall collect from time to time, details about the persons arrested, nature of the offence with which they are charged and maintain a database for the information of the general public.

Right of
arrested
person to
meet an
advocate
of his
choice
during
interrogation.

41D. When any person is arrested and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation.”.

Amendment
of
Section 46.

7. In Section 46 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that where a woman is to be arrested, unless the circumstances indicate to the contrary, her submission to custody on an oral intimation of arrest shall be presumed and, unless the circumstances otherwise require or unless the police officer is a female, the police officer shall not touch the person of the woman for making her arrest.".

Substitution
of new
Section for
Section 54.

8. For Section 54 of the principal Act, the following Section shall be substituted, namely:—

Examination
of arrested
person by
medical
officer.

"54. (1) When any person is arrested, he shall be examined by a medical officer in the service of Central or State Governments and in case the medical officer is not available by a registered medical practitioner soon after the arrest is made :

Provided that where the arrested person is a female, the examination of the body shall be made only by or under the supervision of a female medical officer, and in case the female medical officer is not available, by a female registered medical practitioner.

(2) The medical officer or a registered medical practitioner so examining the arrested person shall prepare the record of such examination, mentioning therein any injuries or marks of violence upon the person arrested, and the approximate time when such injuries or marks may have been inflicted.

(3) Where an examination is made under sub-section (1), a copy of the report of such examination shall be furnished by the medical officer or registered medical practitioner, as the case may be, to the arrested person or the person nominated by such arrested person.".

Insertion
of new
Section
55A.

9. After Section 55 of the principal Act, the following Section shall be inserted, namely:—

Health and
safety of
arrested
person.

"55A. It shall be the duty of the person having the custody of an accused to take reasonable care of the health and safety of the accused.".

Insertion of
new
Section
60A.

10. After Section 60 of the principal Act, the following Section shall be inserted, namely:—

Arrest to
be made
strictly
according
to the
Code.

"60A. No arrest shall be made except in accordance with the provisions of this Code or any other law for the time being in force providing for arrest.".

Amendment
of Section
157.

11. In Section 157 of the principal Act, in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality.”.

Amendment
of Section
161.

12. In Section 161 of the principal Act, in sub-section (3), the following provisos shall be inserted, namely:—

“Provided that statement made under this sub-section may also be recorded by audio-video electronic means.”.

Amendment
of Section
164.

13. In Section 164 of the principal Act, in sub-section (1), for the proviso, the following provisos shall be substituted, namely:—

“Provided that any confession or statement made under this sub-section may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of an offence:

Provided further that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force.”.

Amendment
of Section
167.

14. In Section 167 of the principal Act, in sub-section (2),—

(a) in the proviso,—

(i) for clause (b), the following clause shall be substituted, namely:—

“(b) no Magistrate shall authorise detention of the accused in custody of the police under this Section unless the accused is produced before him in person for the first time and subsequently every time till the accused remains in the custody of the police, but the Magistrate may extend further detention in judicial custody on production of the accused either in person or through the medium of electronic video linkage;”;

(ii) for *Explanation II*, the following *Explanation* shall be substituted, namely:—

“*Explanation II*.— If any question arises whether an accused person was produced before the Magistrate as required under clause (b), the production of the accused person may be proved by his signature on the order authorising detention or by the order certified by the Magistrate as to production of the accused person through the medium of electronic video linkage, as the case may be.”;

(b) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that in case of a woman under eighteen years of age, the detention shall be authorised to be in the custody of a remand home or recognised social institution.”.

Amendment
of Section
172.

15. In Section 172 of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) The statements of witnesses recorded during the course of investigation under Section 161 shall be inserted in the case diary.

(1B) The diary referred to in sub-section (1) shall be a volume and duly paginated.”.

Amendment
of Section
173.

16. In Section 173 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The investigation in relation to rape of a child may be completed within three months from the date on which the information was recorded by the officer in charge of the police station.”;

(b) in sub-section (2), after clause (g), the following clause shall be inserted, namely:—

“(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under Sections 376, 376A, 376B, 376C or 376D of the Indian Penal Code.”.

45 of 1860.

Insertion
of new
Section
195A.

17. After Section 195 of the principal Act, the following Section shall be inserted, namely:—

“195A. A witness or any other person may file a complaint in relation to an offence under Section 195A of the Indian Penal Code.”.

45 of 1860.

Procedure
for
witnesses
in case of
threatening,
etc.

Amendment
of Section
198.

18. In Section 198 of the principal Act, in sub-section (6), for the words “fifteen years of age”, the words “eighteen years of age” shall be substituted.

Amendment
of Section
242.

19. In Section 242 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that the Magistrate shall supply in advance to the accused, the statement of witnesses recorded during investigation by the police.”.

Amendment
of Section
275.

20. In Section 275 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that evidence of a witness under this sub-section may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of the offence.”.

Amendment
of Section
309.

21. In Section 309 of the principal Act,—

(a) In sub-section (1), the following proviso shall be inserted, namely:—

45 of 1860.

“Provided that when the inquiry or trial relates to an offence under Sections 376 to 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible, be completed within a period of two months from the date of commencement of the examination of witnesses.”;

(b) in sub-section (2), after the third proviso and before ^{45 of 1860.} *Explanation 1*, the following proviso shall be inserted, namely:—

“Provided also that—

(a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;

(b) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment;

(c) where a witness is present in Court but a party or his pleader is not present or the party or his pleader though present in Court, is not ready to examine or cross-examine the witness, the Court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be.”.

Amendment
of Section
313.

22. In Section 313 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) The Court may take help of Prosecutor and Defence Counsel in preparing relevant questions which are to be put to the accused and the Court may permit filing of written statement by the accused as sufficient compliance of this Section.”.

Amendment
of Section
320.

23. In Section 320 of the principal Act,—

(i) in sub-section (1), for the TABLE, the following TABLE shall be substituted, namely:—

“TABLE

Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
(1)	(2)	(3)
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Voluntarily causing hurt.	323	The person to whom the hurt is caused.
Voluntarily causing hurt on provocation.	334	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.

(1)	(2)	(3)
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining a person for ten days or more.	344	Ditto
Wrongfully confining a person in secret.	346	Ditto
Assault or use of criminal force.	352, 355, 358	The person assaulted or to whom criminal force is used.
Theft.	379	The owner of the property stolen.
Dishonest misappropriation of property.	403	The owner of the property misappropriated.
Criminal breach of trust by a carrier, wharfinger, etc.	407	The owner of the property in respect of which the breach of trust has been committed.
Dishonestly receiving stolen property knowing it to be stolen.	411	The owner of the property stolen
Assisting in the concealment or disposal of stolen property, knowing it to be stolen.	414	Ditto
Cheating.	417	The person cheated.
Cheating by personation.	419	Ditto
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	421	The creditors who are affected thereby.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	422	Ditto
Fraudulent execution of deed of transfer containing false statement of consideration.	423	The person affected thereby.
Fraudulent removal or concealment of property.	424	Ditto
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.
Mischief by killing or maiming animal.	428	The owner of the animal.
Mischief by killing or maiming cattle, etc.	429	The owner of the cattle or animal.
Mischief by injury to works of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to private person.	430	The person to whom the loss or damage is caused.
Criminal trespass.	447	The person in possession of the property trespassed upon.
House-trespass.	448	Ditto
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark.	482	The person to whom loss or injury is caused by such use.

(1)	(2)	(3)
Counterfeiting a trade or property mark used by another.	483	The person to whom loss or injury is caused by such use.
Knowingly selling, or exposing or possessing for sale or for manufacturing purpose, goods marked with a counterfeit property mark.	486	Ditto
Criminal breach of contract of service.	491	The person with whom the offender has contracted.
Adultery.	497	The husband of the woman.
Enticing or taking away or detaining with criminal intent a married woman.	498	The husband of the woman and the woman.
Defamation, except such cases as are specified against Section 500 of the Indian Penal Code (45 of 1860) in column (1) of the Table under sub-section (2).	500	The person defamed.
Printing or engraving matter, knowing it to be defamatory.	501	Ditto
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	Ditto
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation.	506	The person intimidated.
Inducing person to believe himself an object of divine displeasure.	508	The person induced.”;

(ii) in sub-section (2), for the TABLE the following TABLE shall be substituted, namely:—

“TABLE

Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
(1)	(2)	(3)
Causing miscarriage.	312	The woman to whom miscarriage is caused.
Voluntarily causing grievous hurt.	325	The person to whom hurt is caused.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Theft, by clerk or servant of property in possession of master.	381	The owner of the property stolen.
Criminal breach of trust	406	The owner of property in respect of which breach of trust has been committed.

(1)	(2)	(3)
Criminal breach of trust by a clerk or servant.	408	The owner of the property in respect of which the breach of trust has been committed.
Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	418	The person cheated.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	The person cheated.
Marrying again during the life time of a husband or wife.	494	The husband or wife of the person so marrying.
Defamation against the President or the Vice-President or the Governor of a State or the Administrator of a Union Territory or a Minister in respect of his public functions when instituted upon a complaint made by the Public Prosecutor.	500	The person defamed.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it was intended to insult or whose privacy was intruded upon.”;

(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

45 of 1860.

“(3) When an offence is compoundable under this Section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) or where the accused is liable under Sections 34 or 149 of the Indian Penal Code may be compounded in like manner.”.

Amendment
of Section
327.

24. In Section 327 of the principle Act,—

(a) in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that *in camera* trial shall be conducted as far as practicable by a woman Judge or Magistrate.”;

(b) in sub-section (3), the following proviso shall be inserted, namely:—

“Provided that the ban on printing or publication of trial proceedings in relation to an offence of rape may be lifted, subject to maintaining confidentiality of name and address of the parties.”.

25. In Section 328 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) If the civil surgeon finds the accused to be of unsound mind, he shall refer such person to a psychiatrist or clinical psychologist for care, treatment and prognosis of the condition and the psychiatrist or clinical psychologist, as the case may be, shall inform the Magistrate whether the accused is suffering from unsoundness of mind or mental retardation :

Provided that if the accused is aggrieved by the information given by the psychiatric or clinical psychologist, as the case may be, to the Magistrate, he may prefer an appeal before the Medical Board which shall consist of—

(a) head of psychiatry unit in the nearest Government hospital; and

(b) a faculty member in psychiatry in the nearest medical college;”.

(b) for sub-section (3), the following sub-sections shall be substituted, namely:—

“(3) If such Magistrate is informed that the person referred to in sub-section (1A) is a person of unsound mind, the Magistrate shall further determine whether the unsoundness of mind renders the accused incapable of entering defence and if the accused is found so incapable, the Magistrate shall record a finding to that effect, and shall examine the record of evidence produced by the prosecution and after hearing the advocate of the accused but without questioning the accused, if he finds that no *prima facie* case is made out against the accused, he shall, instead of postponing the enquiry, discharge the accused and deal with him in the manner provided under Section 330 :

Provided that if the Magistrate finds that a *prima facie* case is made out against the accused in respect of whom a finding of unsoundness of mind is arrived at, he shall postpone the proceeding for such period, as in the opinion of the psychiatrist or clinical psychologist, is required for the treatment of the accused, and order the accused to be dealt with as provided under Section 330.

(4) If such Magistrate is informed that the person referred to in sub-section (1A) is a person with mental retardation, the Magistrate shall further determine whether the mental retardation renders the accused incapable of entering defence, and if the accused is found so incapable, the Magistrate shall order closure of the inquiry and deal with the accused in the manner provided under Section 330.”.

26. In Section 329 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) If during trial, the Magistrate or Court of Sessions finds the accused to be of unsound mind, he or it shall refer such person to a psychiatrist or clinical psychologist for care and treatment, and the psychiatrist or clinical psychologist, as the case may be shall report to the Magistrate or Court whether the accused is suffering from unsoundness of mind :

Provided that if the accused is aggrieved by the information given by the psychiatric or clinical psychologist, as the case may be, to the Magistrate, he may prefer an appeal before the Medical Board which shall consist of—

(a) head of psychiatry unit in the nearest Government hospital; and

(b) a faculty member in psychiatry in the nearest medical college.”;

(b) for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) If such Magistrate or Court is informed that the person referred to in sub-section (1A) is a person of unsound mind, the Magistrate or Court shall further determine whether unsoundness of mind renders the accused incapable of entering defence and if the accused is found so incapable, the Magistrate or Court shall record a finding to that effect and shall examine the record of evidence produced by the prosecution and after hearing the advocate of the accused but without questioning the accused, if the Magistrate or Court finds that no *prima facie* case is made out against the accused, he or it shall, instead of postponing the trial, discharge the accused and deal with him in the manner provided under Section 330 :

Provided that if the Magistrate or Court finds that a *prima facie* case is made out against the accused in respect of whom a finding of unsoundness of mind is arrived at, he shall postpone the trial for such period, as in the opinion of the psychiatrist or clinical psychologist, is required for the treatment of the accused.

(3) If the Magistrate or Court finds that a *prima facie* case is made out against the accused and he is incapable of entering defence by reason of mental retardation, he or it shall not hold the trial and order the accused to be dealt with in accordance with Section 330.”.

Substitution
of new
Section for
Section
330.

Release of
person of
unsound
mind
pending
investigation
or trial.

27. For Section 330 of the principal Act, the following Section shall be substituted, namely:—

“330. (1) Whenever a person is found under Section 328 or Section 329 to be incapable of entering defence by reason of unsoundness of mind or mental retardation, the Magistrate or Court, as the case may be shall, whether the case is one in which bail may be taken or not, order release of such person on bail :

Provided that the accused is suffering from unsoundness of mind or mental retardation which does not mandate inpatient treatment and a friend or relative undertakes to obtain regular outpatient psychiatric treatment from the nearest medical facility and to prevent from doing injury to himself or to any other person.

(2) If the case is one in which, in the opinion of the Magistrate or Court, as the case may be, bail cannot be granted or if an appropriate undertaking is not given, he or it shall order the accused to be kept in such a place where regular psychiatric treatment can be provided, and shall report the action taken to the State Government :

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the State Government may have made under the Mental Health Act, 1987.

14 of 1987.

(3) Whenever a person is found under Section 328 or Section 329 to be incapable of entering defence by reason of unsoundness of mind or mental retardation, the Magistrate or Court, as the case may be, shall keeping in view the nature of the act committed and the extent of unsoundness of mind or mental retardation, further determine if the release of the accused can be ordered :

Provided that—

(a) if on the basis of medical opinion or opinion of a specialist, the Magistrate or Court, as the case may be, decide to order discharge of the accused, as provided under Section 328 or Section 329, such release may be ordered, if sufficient security is given that the accused shall be prevented from doing injury to himself or to any other person;

(b) if the Magistrate or Court, as the case may be, is of opinion that discharge of the accused cannot be ordered, the transfer of the accused to a residential facility for persons of unsound mind or mental retardation may be ordered wherein the accused may be provided care and appropriate education and training.”.

Insertion of
new
Section
357A.
Victim
compen-
sation
scheme.

28. After Section 357 of the principal Act, the following Section shall be inserted, namely:—

“357A. (1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under Section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

(6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit.”.

Amendment
of Section
372.

29. In Section 372 of the principal Act, the following proviso shall be inserted, namely:—

“Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.”.

Amendment
of Section
416.

30. In Section 416 of the principal Act, the words “order the execution of the sentence to be postponed, and may, if it thinks fit” shall be omitted.

Insertion of
new
Section
437A.

Bail to
require
accused to
appear
before next
Appellate
Court.

31. After Section 437 of the principal Act, the following Section shall be inserted, namely:—

“437A. (1) Before conclusion of the trial and before disposal of the appeal, the Court trying the offence or the Appellate Court, as the case may be, shall require the accused to execute bail bonds with sureties, to appear before the higher Court as and when such Court issues notice in respect of any appeal or petition filed against the judgment of the respective Court and such bail bonds shall be in force for six months.

(2) If such accused fails to appear, the bond stand forfeited and the procedure under Section 446 shall apply.”.

Amendment
of Form 45.

32. In the Second Schedule to the principal Act, in Form No. 45, after the figures “437”, the figures and letter “437A” shall be inserted.

THE LIMITED LIABILITY PARTNERSHIP ACT, 2008

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Assented to on the 7th January 2009

THE LIMITED LIABILITY PARTNERSHIP ACT, 2008

(CENTRAL ACT No. 6 OF 2009)

An Act, to make provisions for the formation and regulation of limited liability partnerships and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Limited Liability Partnership Act, 2008.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “address”, in relation to a partner of a limited liability partnership, means—

(i) if an individual, his usual residential address; and

(ii) if a body corporate, the address of its registered office;

(b) “advocate” means an advocate as defined in clause (a) of sub-section (1) of Section 2 of the Advocates Act, 1961;

25 of 1961.

(c) “Appellate Tribunal” means the National Company Law Appellate Tribunal constituted under sub-section (1) of Section 10FR of the Companies Act, 1956;

1 of 1956.

(d) “body corporate” means a company as defined in Section 3 of the Companies Act, 1956 and includes –

1 of 1956.

(i) a limited liability partnership registered under this Act;

(ii) a limited liability partnership incorporated outside India; and

(iii) a company incorporated outside India,

but does not include—

(i) a corporation sole;

(ii) a co-operative society registered under any law for the time being in force; and

(iii) any other body corporate (not being a company as defined in Section 3 of the Companies Act, 1956 or a limited liability partnership as defined in this Act), which the Central Government may, by notification in the Official Gazette, specify in this behalf;

1 of 1956.

(e) "business" includes every trade, profession, service and occupation;

(f) "chartered accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of Section 2 of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice ^{38 of 1949.} under sub-section (1) of Section 6 of that Act;

(g) "company secretary" means a company secretary as defined in clause (c) of sub-section (1) of Section 2 of the Company Secretaries Act, 1980 and who has obtained a certificate of practice ^{56 of 1980.} under sub-section (1) of Section 6 of that Act;

(h) "cost accountant" means a cost accountant as defined in clause (b) of subsection (1) of Section 2 of the Cost and Works Accountants Act, 1959 and who has obtained a certificate of practice ^{23 of 1959.} under sub-section (1) of Section 6 of that Act;

(i) "Court", with respect to any offence under this Act, means the Court having jurisdiction as per the provisions of Section 77;

(j) "designated partner" means any partner designated as such pursuant to Section 7;

(k) "entity" means any body corporate and includes, for the purposes of Sections 18, 46, 47, 48, 49, 50, 52 and 53, a firm set-up under the Indian Partnership Act, 1932; ^{9 of 1932.}

(l) "financial year", in relation to a limited liability partnerships, means the period from the 1st day of April of a year to the 31st day of March of the following year:

Provided that in the case of a limited liability partnership incorporated after the 30th day of September of a year, the financial year may end on the 31st day of March of the year next following that year;

(m) "foreign limited liability partnership" means a limited liability partnership formed, incorporated or registered outside India which establishes a place of business within India;

(n) "limited liability partnership" means a partnership formed and registered under this Act;

(o) "limited liability partnership agreement" means any written agreement between the partners of the limited liability partnership or between the limited liability partnership and its partners which determines the mutual rights and duties of the partners and their rights and duties in relation to that limited liability partnership;

(p) "name", in relation to a partner of a limited liability partnership, means—

(i) if an individual, his forename, middle name and surname; and

(ii) if a body corporate, its registered name;

(q) "partner", in relation to a limited liability partnership, means any person who becomes a partner in the limited liability partnership in accordance with the limited liability partnership agreement;

(r) "prescribed" means prescribed by rules made under this Act;

(s) "Registrar" means a Registrar, or an Additional, a Joint, a Deputy or an Assistant Registrar, having the duty of registering companies under the Companies Act, 1956;

1 of 1956.

(t) "Schedule" means a Schedule to this Act;

(u) "Tribunal" means the National Company Law Tribunal constituted under sub-section (1) of Section 10FB of the Companies Act, 1956.

1 of 1956.

(2) Words and expressions used and not defined in this Act but defined in the Companies Act, 1956 shall have the meanings respectively assigned to them in that Act.

1 of 1956.

CHAPTER II

NATURE OF LIMITED LIABILITY PARTNERSHIP

Limited
liability
partnership
to be body
corporate.

3. (1) A limited liability partnership is a body corporate formed and incorporated under this Act and is a legal entity separate from that of its partners.

(2) A limited liability partnership shall have perpetual succession.

(3) Any change in the partners of a limited liability partnership shall not affect the existence, rights or liabilities of the limited liability partnership.

Non
applicability
of the
Indian
Partnership
Act, 1932.

Partners.

4. Save as otherwise provided, the provisions of the Indian Partnership Act, 1932 shall not apply to a limited liability partnership.

9 of 1932.

5. Any individual or body corporate may be a partner in a limited liability partnership :

Provided that an individual shall not be capable of becoming a partner of a limited liability partnership, if—

(a) he has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force;

(b) he is an undischarged insolvent; or

(c) he has applied to be adjudicated as an insolvent and his application is pending.

Minimum
number of
partners.

6. (1) Every limited liability partnership shall have at least two partners.

(2) If at any time the number of partners of a limited liability partnership is reduced below two and the limited liability partnership carries on business for more than six months while the number is so reduced, the person, who is the only partner of the limited liability partnership during the time that it so carries on business after those six months and has the knowledge of the fact that it is carrying on business with him alone, shall be liable personally for the obligations of the limited liability partnership incurred during that period.

Designated
partners.

7. (1) Every limited liability partnership shall have at least two designated partners who are individuals and at least one of them shall be a resident in India :

Provided that in case of a limited liability partnership in which all the partners are bodies corporate or in which one or more partners are individuals and bodies corporate, at least two individuals who are partners of such limited liability partnership or nominees of such bodies corporate shall act as designated partners.

Explanation.— For the purposes of this Section, the term “resident in India” means a person who has stayed in India for a period of not less than one hundred and eighty-two days during the immediately preceding one year.

(2) Subject to the provisions of sub-section (1),—

(i) if the incorporation document—

(a) specifies who are to be designated partners, such persons shall be designated partners on incorporation; or

(b) states that each of the partners from time to time of limited liability partnership is to be designated partner, every such partner shall be a designated partner;

(ii) any partner may become a designated partner by and in accordance with the limited liability partnership agreement and a partner may cease to be a designated partner in accordance with limited liability partnership agreement.

(3) An individual shall not become a designated partner in any limited liability partnership unless he has given his prior consent to act as such to the limited liability partnership in such form and manner as may be prescribed.

(4) Every limited liability partnership shall file with the Registrar the particulars of every individual who has given his consent to act as designated partner in such form and manner as may be prescribed within thirty days of his appointment.

(5) An individual eligible to be a designated partner shall satisfy such conditions and requirements as may be prescribed.

(6) Every designated partner of a limited liability partnership shall obtain a Designated Partner Identification Number (DPIN) from the Central Government and the provisions of Sections 266A to 266G (both inclusive) of the Companies Act, 1956 shall apply *mutatis mutandis* for the said purpose.

Liabilities of
designated
partners.

8. Unless expressly provided otherwise in this Act, a designated partner shall be—

(a) responsible for the doing of all acts, matters and things as are required to be done by the limited liability partnership in respect of compliance of the provisions of this Act including filing of any document, return, statement and the like report pursuant to the provisions of this Act and as may be specified in the limited liability partnership agreement; and

(b) liable to all penalties imposed on the limited liability partnership for any contravention of those provisions.

Changes in
designated
partners.

9. A limited liability partnership may appoint a designated partner within thirty days of a vacancy arising for any reason and provisions of sub-section (4) and sub-section (5) of Section 7 shall apply in respect of such new designated partner :

Provided that if no designated partner is appointed, or if at any time there is only one designated partner, each partner shall be deemed to be a designated partner.

Punishment
for
contraven-
tion of
Sections 7,
8 and 9.

10. (1) If the limited liability partnership contravenes the provisions of sub-section (1) of Section 7, the limited liability partnership and its every partner shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to five lakh rupees.

(2) If the limited liability partnership contravenes the provisions of sub-section (4) and sub-section (5) of Section 7, Section 8 or Section 9, the limited liability partnership and its every partner shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

CHAPTER III

INCORPORATION OF LIMITED LIABILITY PARTNERSHIP AND MATTERS INCIDENTAL THERETO

Incorporation
document.

11. (1) For a limited liability partnership to be incorporated,—

(a) two or more persons associated for carrying on a lawful business with a view to profit shall subscribe their names to an incorporation document;

(b) the incorporation document shall be filed in such manner and with such fees, as may be prescribed with the Registrar of the State in which the registered office of the limited liability partnership is to be situated; and

(c) there shall be filed along with the incorporation document, a statement in the prescribed form, made by either an advocate, or a Company Secretary or a Chartered Accountant or a Cost Accountant, who is engaged in the formation of the limited liability partnership and by any one who subscribed his name to the incorporation document, that all the requirements of this Act and the rules made thereunder have been complied with, in respect of incorporation and matters precedent and incidental thereto.

(2) The incorporation document shall—

- (a) be in a form as may be prescribed;
- (b) state the name of the limited liability partnership;
- (c) state the proposed business of the limited liability partnership;
- (d) state the address of the registered office of the limited liability partnership;
- (e) state the name and address of each of the persons who are to be partners of the limited liability partnership on incorporation;
- (f) state the name and address of the persons who are to be designated partners of the limited liability partnership on incorporation;
- (g) contain such other information concerning the proposed limited liability partnership as may be prescribed.

(3) If a person makes a statement under clause (c) of sub-section (1) which he—

- (a) knows to be false; or
- (b) does not believe to be true,

shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than ten thousand rupees but which may extend to five lakh rupees.

Incorporation by registration. **12.** (1) When the requirements imposed by clauses (b) and (c) of sub-section (1) of Section 11 have been complied with, the Registrar shall retain the incorporation document and, unless the requirement imposed by clause (a) of that sub-section has not been complied with, he shall, within a period of fourteen days—

- (a) register the incorporation document; and
- (b) give a certificate that the limited liability partnership is incorporated by the name specified therein.

(2) The Registrar may accept the statement delivered under clause (c) of sub-section (1) of Section 11 as sufficient evidence that the requirement imposed by clause (a) of that sub-section has been complied with.

(3) The certificate issued under clause (b) of sub-section (1) shall be signed by the Registrar and authenticated by his official seal.

(4) The certificate shall be conclusive evidence that the limited liability partnership is incorporated by the name specified therein.

Registered office of limited liability partnership and change therein. **13.** (1) Every limited liability partnership shall have a registered office to which all communications and notices may be addressed and where they shall be received.

(2) A document may be served on a limited liability partnership or a partner or designated partner thereof by sending it by post under a certificate of posting or by registered post or by any other manner, as may be prescribed, at the registered office and any other address specifically declared by the limited liability partnership for the purpose in such form and manner as may be prescribed.

(3) A limited liability partnership may change the place of its registered office and file the notice of such change with the Registrar in such form and manner and subject to such conditions as may be prescribed and any such change shall take effect only upon such filing.

(4) If the limited liability partnership contravenes any provisions of this Section, the limited liability partnership and its every partner shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

Effect of registration.

14. On registration, a limited liability partnership shall, by its name, be capable of —

(a) suing and being sued;

(b) acquiring, owning, holding and developing or disposing of property, whether movable or immovable, tangible or intangible;

(c) having a common seal, if it decides to have one; and

(d) doing and suffering such other acts and things as bodies corporate may lawfully do and suffer.

Name.

15. (1) Every limited liability partnership shall have either the words "limited liability partnership" or the acronym "LLP" as the last words of its name.

(2) No limited liability partnership shall be registered by a name which, in the opinion of the Central Government is —

(a) undesirable; or

(b) identical or too nearly resembles to that of any other partnership firm or limited liability partnership or body corporate or a registered trade mark, or a trade mark which is the subject matter of an application for registration, of any other person under the Trade Marks Act, 1999.

47 of 1999.

Reservation of name.

16. (1) A person may apply in such form and manner and accompanied by such fee as may be prescribed to the Registrar for the reservation of a name set out in the application as—

(a) the name of a proposed limited liability partnership; or

(b) the name to which a limited liability partnership proposes to change its name.

(2) Upon receipt of an application under sub-section (1) and on payment of the prescribed fee, the Registrar may, if he is satisfied, subject to the rules prescribed by the Central Government in the matter, that the name to be reserved is not one which may be rejected on any ground referred to in sub-section (2) of Section 15, reserve the name for a period of three months from the date of intimation by the Registrar.

Change of name of limited liability partnership.

17. (1) Notwithstanding anything contained in Sections 15 and 16, where the Central Government is satisfied that a limited liability partnership has been registered (whether through inadvertence or otherwise and whether originally or by a change of name) under a name which —

(a) is a name referred to in sub-section (2) of Section 15; or

(b) is identical with or too nearly resembles the name of any other limited liability partnership or body corporate or other name as to be likely to be mistaken for it,

the Central Government may direct such limited liability partnership to change its name, and the limited liability partnership shall comply with the said direction within three months after the date of the direction or such longer period as the Central Government may allow.

(2) Any limited liability partnership which fails to comply with a direction given under sub-section (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to five lakh rupees and the designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

Application for direction to change name in certain circumstances.

18. (1) Any entity which already has a name similar to the name of a limited liability partnership which has been incorporated subsequently, may apply, in such manner as may be prescribed, to the Registrar to give a direction to any limited liability partnership, on a ground referred to in Section 17 to change its name.

(2) The Registrar shall not consider any application under sub-section (1) to give a direction to a limited liability partnership on the ground referred to in clause (b) of sub-section (1) of Section 17 unless the Registrar receives the application within twenty-four months from the date of registration of the limited liability partnership under that name.

Change of registered name.

19. Any limited liability partnership may change its name registered with the Registrar by filing with him a notice of such change in such form and manner and on payment of such fees as may be prescribed.

Penalty for improper use of words "limited liability partnership" or "LLP".

20. If any person or persons carry on business under any name or title of which the words "Limited Liability Partnership" or "LLP" or any contraction or imitation thereof is or are the last word or words, that person or each of those persons shall, unless duly incorporated as limited liability partnership, be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

Publication of name and limited liability.

21. (1) Every limited liability partnership shall ensure that its invoices, official correspondence and publications bear the following, namely:—

(a) the name, address of its registered office and registration number of the limited liability partnership; and

(b) a statement that it is registered with limited liability.

(2) Any limited liability partnership which contravenes the provisions of sub-section (1) shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

CHAPTER IV

PARTNERS AND THEIR RELATIONS

Eligibility to be partners. **22.** On the incorporation of a limited liability partnership, the persons who subscribed their names to the incorporation document shall be its partners and any other person may become a partner of the limited liability partnership by and in accordance with the limited liability partnership agreement.

Relationship of partners. **23.** (1) Save as otherwise provided by this Act, the mutual rights and duties of the partners of a limited liability partnership, and the mutual rights and duties of a limited liability partnership and its partners, shall be governed by the limited liability partnership agreement between the partners, or between the limited liability partnership and its partners.

(2) The limited liability partnership agreement and any changes, if any, made therein shall be filed with the Registrar in such form, manner and accompanied by such fees as may be prescribed.

(3) An agreement in writing made before the incorporation of a limited liability partnership between the persons who subscribe their names to the incorporation document may impose obligations on the limited liability partnership, provided such agreement is ratified by all the partners after the incorporation of the limited liability partnership.

(4) In the absence of agreement as to any matter, the mutual rights and duties of the partners and the mutual rights and duties of the limited liability partnership and the partners shall be determined by the provisions relating to that matter as are set out in the First Schedule.

Cessation of partnership interest. **24.** (1) A person may cease to be a partner of a limited liability partnership in accordance with an agreement with the other partners or, in the absence of agreement with the other partners as to cessation of being a partner, by giving a notice in writing of not less than thirty days to the other partners of his intention to resign as partner.

(2) A person shall cease to be a partner of a limited liability partnership—

(a) on his death or dissolution of the limited liability partnership; or

(b) if he is declared to be of unsound mind by a competent court; or

(c) if he has applied to be adjudged as an insolvent or declared as an insolvent.

(3) Where a person has ceased to be a partner of a limited liability partnership (hereinafter referred to as “former partner”), the former partner is

to be regarded (in relation to any person dealing with the limited liability partnership) as still being a partner of the limited liability partnership unless—

(a) the person has notice that the former partner has ceased to be a partner of the limited liability partnership; or

(b) notice that the former partner has ceased to be a partner of the limited liability partnership has been delivered to the Registrar.

(4) The cessation of a partner from the limited liability partnership does not by itself discharge the partner from any obligation to the limited liability partnership or to the other partners or to any other person which he incurred while being a partner.

(5) Where a partner of a limited liability partnership ceases to be a partner, unless otherwise provided in the limited liability partnership agreement, the former partner or a person entitled to his share in consequence of the death or insolvency of the former partner, shall be entitled to receive from the limited liability partnership —

(a) an amount equal to the capital contribution of the former partner actually made to the limited liability partnership; and

(b) his right to share in the accumulated profits of the limited liability partnership,

after the deduction of accumulated losses of the limited liability partnership, determined as at the date the former partner ceased to be a partner.

(6) A former partner or a person entitled to his share in consequence of the death or insolvency of the former partner shall not have any right to interfere in the management of the limited liability partnership.

Registration
of
changes in
partners.

25. (1) Every partner shall inform the limited liability partnership of any change in his name or address within a period of fifteen days of such change.

(2) A limited liability partnership shall—

(a) where a person becomes or ceases to be a partner, file a notice with the Registrar within thirty days from the date he becomes or ceases to be a partner; and

(b) where there is any change in the name or address of a partner, file a notice with the Registrar within thirty days of such change.

(3) A notice filed with the Registrar under sub-section (2)—

(a) shall be in such form and accompanied by such fees as may be prescribed;

(b) shall be signed by the designated partner of the limited liability partnership and authenticated in a manner as may be prescribed; and

(c) if it relates to an incoming partner, shall contain a statement by such partner that he consents to becoming a partner, signed by him and authenticated in the manner as may be prescribed.

(4) If the limited liability partnership contravenes the provisions of sub-section (2), the limited liability partnership and every designated partner of the limited liability partnership shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

(5) If any partner contravenes the provisions of sub-section (1), such partner shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

(6) Any person who ceases to be a partner of a limited liability partnership may himself file with the Registrar the notice referred to in sub-section (3) if he has reasonable cause to believe that the limited liability partnership may not file the notice with the Registrar and in case of any such notice filed by a partner, the Registrar shall obtain a confirmation to this effect from the limited liability partnership unless the limited liability partnership has also filed such notice :

Provided that where no confirmation is given by the limited liability partnership within fifteen days, the Registrar shall register the notice made by a person ceasing to be a partner under this Section.

CHAPTER V

EXTENT AND LIMITATION OF LIABILITY OF LIMITED LIABILITY PARTNERSHIP AND PARTNERS

Partner as agent.

26. Every partner of a limited liability partnership is, for the purpose of the business of the limited liability partnership, the agent of the limited liability partnership, but not of other partners.

Extent of liability of limited liability partnership.

27. (1) A limited liability partnership is not bound by anything done by a partner in dealing with a person if—

(a) the partner in fact has no authority to act for the limited liability partnership in doing a particular act; and

(b) the person knows that he has no authority or does not know or believe him to be a partner of the limited liability partnership.

(2) The limited liability partnership is liable if a partner of a limited liability partnership is liable to any person as a result of a wrongful act or omission on his part in the course of the business of the limited liability partnership or with its authority.

(3) An obligation of the limited liability partnership whether arising in contract or otherwise, shall be solely the obligation of the limited liability partnership.

(4) The liabilities of the limited liability partnership shall be met out of the property of the limited liability partnership.

Extent of liability of partner.

28. (1) A partner is not personally liable, directly or indirectly for an obligation referred to in sub-section (3) of Section 27 solely by reason of being a partner of the limited liability partnership.

(2) The provisions of sub-section (3) of Section 27 and sub-section (1) of this Section shall not affect the personal liability of a partner for his own wrongful act or omission, but a partner shall not be personally liable for the wrongful act or omission of any other partner of the limited liability partnership.

Holding out.

29. (1) Any person, who by words spoken or written or by conduct, represents himself, or knowingly permits himself to be represented to be a partner in a limited liability partnership is liable to any person who has on the faith of any such representation given credit to the limited liability partnership, whether the person representing himself or represented to be a partner does or does not know that the representation has reached the person so giving credit :

Provided that where any credit is received by the limited liability partnership as a result of such representation, the limited liability partnership shall, without prejudice to the liability of the person so representing himself or represented to be a partner, be liable to the extent of credit received by it or any financial benefit derived thereon.

(2) Whereafter a partner's death the business is continued in the same limited liability partnership name, the continued use of that name or of the deceased partner's name as a part thereof shall not of itself make his legal representative or his estate liable for any act of the limited liability partnership done after his death.

Unlimited liability in case of fraud.

30. (1) In the event of an act carried out by a limited liability partnership, or any of its partners, with intent to defraud creditors of the limited liability partnership or any other person, or for any fraudulent purpose, the liability of the limited liability partnership and partners who acted with intent to defraud creditors or for any fraudulent purpose shall be unlimited for all or any of the debts or other liabilities of the limited liability partnership :

Provided that in case any such act is carried out by a partner, the limited liability partnership is liable to the same extent as the partner unless it is established by the limited liability partnership that such act was without the knowledge or the authority of the limited liability partnership.

(2) Where any business is carried on with such intent or for such purpose as mentioned in sub-section (1), every person who was knowingly a party to the carrying on of the business in the manner aforesaid shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

(3) Where a limited liability partnership or any partner or designated partner or employee of such limited liability partnership has conducted the affairs of the limited liability partnership in a fraudulent manner, then without prejudice to any criminal proceedings which may arise under any law for the time being in force, the limited liability partnership and any such partner or designated partner or employee shall be liable to pay compensation to any person who has suffered any loss or damage by reason of such conduct :

Provided that such limited liability partnership shall not be liable if any such partner or designated partner or employee has acted fraudulently without knowledge of the limited liability partnership.

Whistle
blowing.

31. (1) The Court or Tribunal may reduce or waive any penalty leviable against any partner or employee of a limited liability partnership, if it is satisfied that—

(a) such partner or employee of a limited liability partnership has provided useful information during investigation of such limited liability partnership; or

(b) when any information given by any partner or employee (whether or not during investigation) leads to limited liability partnership or any partner or employee of such limited liability partnership being convicted under this Act or any other Act.

(2) No partner or employee of any limited liability partnership may be discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against the terms and conditions of his limited liability partnership or employment merely because of his providing information or causing information to be provided pursuant to sub-section (1).

CHAPTER VI

CONTRIBUTIONS

Form of
contribution.

32. (1) A contribution of a partner may consist of tangible, movable or immovable or intangible property or other benefit to the limited liability partnership, including money, promissory notes, other agreements to contribute cash or property, and contracts for services performed or to be performed.

(2) The monetary value of contribution of each partner shall be accounted for and disclosed in the accounts of the limited liability partnership in the manner as may be prescribed.

Obligation to
contribute.

33. (1) The obligation of a partner to contribute money or other property or other benefit or to perform services for a limited liability partnership shall be as per the limited liability partnership agreement.

(2) A creditor of a limited liability partnership, which extends credit or otherwise acts in reliance on an obligation described in that agreement, without notice of any compromise between partners, may enforce the original obligation against such partner.

CHAPTER VII

FINANCIAL DISCLOSURES

Maintenance
of
books of
account,
other
records
and
audit, etc.

34. (1) The limited liability partnership shall maintain such proper books of account as may be prescribed relating to its affairs for each year of its existence on cash basis or accrual basis and according to double entry system of accounting and shall maintain the same at its registered office for such period as may be prescribed.

(2) Every limited liability partnership shall, within a period of six months from the end of each financial year, prepare a Statement of Account and Solvency for the said financial year as at the last day of the said financial year in such form as may be prescribed, and such statement shall be signed by the designated partners of the limited liability partnership.

(3) Every limited liability partnership shall file within the prescribed time, the Statement of Account and Solvency prepared pursuant to sub-section (2) with the Registrar every year in such form and manner and accompanied by such fees as may be prescribed.

(4) The accounts of limited liability partnerships shall be audited in accordance with such rules as may be prescribed :

Provided that the Central Government may, by notification in the Official Gazette, exempt any class or classes of limited liability partnerships from the requirements of this sub-section.

(5) Any limited liability partnership which fails to comply with the provisions of this Section shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

35. (1) Every limited liability partnership shall file an annual return duly authenticated with the Registrar within sixty days of closure of its financial year in such form and manner and accompanied by such fee as may be prescribed.

(2) Any limited liability partnership which fails to comply with the provisions of this Section shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.

(3) If the limited liability partnership contravenes the provisions of this Section, the designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

36. The incorporation document, names of partners and changes, if any, made therein, Statement of Account and Solvency and annual return filed by each limited liability partnership with the Registrar shall be available for inspection by any person in such manner and on payment of such fee as may be prescribed.

37. If in any return, statement or other document required by or for the purposes of any of the provisions of this Act, any person makes a statement—

(a) which is false in any material particular, knowing it to be false; or

(b) which omits any material fact knowing it to be material,

he shall, save as otherwise expressly provided in this Act, be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five lakh rupees but which shall not be less than one lakh rupees.

Power of
Registrar to
obtain
information.

38. (1) In order to obtain such information as the Registrar may consider necessary for the purposes of carrying out the provisions of this Act, the Registrar may require any person including any present or former partner or designated partner or employee of a limited liability partnership to answer any question or make any declaration or supply any details or particulars in writing to him within a reasonable period.

(2) In case any person referred to in sub-section (1) does not answer such question or make such declaration or supply such details or particulars asked for by the Registrar within a reasonable time or time given by the Registrar or when the Registrar is not satisfied with the reply or declaration or details or particulars provided by such person, the Registrar shall have power to summon that person to appear before him or an inspector or any other public officer whom the Registrar may designate, to answer any such question or make such declaration or supply such details, as the case may be.

(3) Any person who, without lawful excuse, fails to comply with any summons or requisition of the Registrar under this Section shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

Compounding
of
offences.

39. The Central Government may compound any offence under this Act which is punishable with fine only, by collecting from a person reasonably suspected of having committed the offence, a sum which may extend to the amount of the maximum fine prescribed for the offence.

Destruction
of
old records.

40. The Registrar may destroy any document filed or registered with him in physical form or in electronic form in accordance with such rules as may be prescribed.

Enforcement
of
duty to make
returns, etc.

41. (1) If any limited liability partnership is in default in complying with—
 (a) any provisions of this Act or of any other law which requires the filing in any manner with the Registrar of any return, account or other document or the giving of notice to him of any matter; or
 (b) any request of the Registrar to amend or complete and resubmit any document or to submit a fresh document,

and fails to make good the default within fourteen days after the service on the limited liability partnership of a notice requiring it to be done, the Tribunal may, on application by the Registrar, make an order directing that limited liability partnership or its designated partners or its partners to make good the default within such time as specified in the order.

(2) Any such order may provide that all the costs of and incidental to the application shall be borne by that limited liability partnership.

(3) Nothing in this Section shall limit the operation of any other provision of this Act or any other law imposing penalties in respect of any default referred to in this Section on that limited liability partnership.

CHAPTER VIII

ASSIGNMENT AND TRANSFER OF PARTNERSHIP RIGHTS

Partner's
transferable
interest.

42. (1) The rights of a partner to a share of the profits and losses of the limited liability partnership and to receive distributions in accordance with the limited liability partnership agreement are transferable either wholly or in part.

(2) The transfer of any right by any partner pursuant to sub-section (1) does not by itself cause the disassociation of the partner or a dissolution and winding up of the limited liability partnership.

(3) The transfer of right pursuant to this Section does not, by itself, entitle the transferee or assignee to participate in the management or conduct of the activities of the limited liability partnership, or access information concerning the transactions of the limited liability partnership.

CHAPTER IX

INVESTIGATION

Investigation
of the
affairs of
limited
liability
partner-
ship.

43. (1) The Central Government shall appoint one or more competent persons as inspectors to investigate the affairs of a limited liability partnership and to report thereon in such manner as it may direct if—

(a) the Tribunal, either *suo motu*, or on an application received from not less than one-fifth of the total number of partners of limited liability partnership, by order, declares that the affairs of the limited liability partnership ought to be investigated; or

(b) any Court, by order, declares that the affairs of a limited liability partnership ought to be investigated.

(2) The Central Government may appoint one or more competent persons as inspectors to investigate the affairs of a limited liability partnership and to report on them in such manner as it may direct.

(3) The appointment of inspectors pursuant to sub-section (2) may be made,—

(a) if not less than one-fifth of the total number of partners of the limited liability partnership make an application along with supporting evidence and security amount as may be prescribed; or

(b) if the limited liability partnership makes an application that the affairs of the limited liability partnership ought to be investigated; or

(c) if, in the opinion of the Central Government, there are circumstances suggesting—

(i) that the business of the limited liability partnership is being or has been conducted with an intent to defraud its creditors, partners or any other person, or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive or unfairly prejudicial to some or any of its partners, or that the limited liability partnership was formed for any fraudulent or unlawful purpose; or

(ii) that the affairs of the limited liability partnership are not being conducted in accordance with the provisions of this Act; or

(iii) that, on receipt of a report of the Registrar or any other investigating or regulatory agency, there are sufficient reasons that the affairs of the limited liability partnership ought to be investigated.

Application by partners for investigation.

44. An application by partners of the limited liability partnership under clause (a) of sub-section (1) of Section 43 shall be supported by such evidence as the Tribunal may require for the purpose of showing that the applicants have good reason for requiring the investigation and the Central Government may, before appointing an inspector, require the applicants to give security, of such amount as may be prescribed, for payment of costs of the investigation.

Firm, body corporate or association not to be appointed as inspector.

Power of inspectors to carry out investigation into affairs of related entities, etc.

45. No firm, body corporate or other association shall be appointed as an inspector.

46. (1) If an inspector appointed by the Central Government to investigate the affairs of a limited liability partnership thinks it necessary for the purposes of his investigation to investigate also the affairs of an entity which has been associated in the past or is presently associated with the limited liability partnership or any present or former partner or designated partner of the limited liability partnership, the inspector shall have the power to do so and shall report on the affairs of the other entity or partner or designated partner, so far as he thinks that the results of his investigation thereof are relevant to the investigation of the affairs of the limited liability partnership.

(2) In the case of any entity or partner or designated partner referred to in sub-section (1), the inspector shall not exercise his power of investigating into, and reporting on, its or his affairs without first having obtained the prior approval of the Central Government thereto :

Provided that before according approval under this sub-section, the Central Government shall give the entity or partner or designated partner a reasonable opportunity to show cause why such approval should not be accorded.

Production of documents and evidence.

47. (1) It shall be the duty of the designated partner and partners of the limited liability partnership—

(a) to preserve and to produce before an inspector or any person authorised by him in this behalf with the previous approval of the Central Government, all books and papers of, or relating to, the limited liability partnership or, as the case may be, the other entity, which are in their custody or power; and

(b) otherwise to give to the inspector all assistance in connection with the investigation which they are reasonably able to give.

(2) The inspector may, with the previous approval of the Central Government, require any entity other than an entity referred to in sub-section (1) to furnish such information to, or produce such books and papers before him or any person authorised by him in this behalf, with the previous approval of that Government, as he may consider necessary, if the furnishing of such information or the production of such books and papers is relevant or necessary for the purposes of his investigation.

(3) The inspector may keep in his custody any books and papers produced under sub-section (1) or sub-section (2) for thirty days and thereafter shall return the same to the limited liability partnership, other entity or individual by whom or on whose behalf the books and papers are produced :

Provided that the inspector may call for the books and papers if they are needed again :

Provided further that if certified copies of the books and papers produced under sub-section (2) are furnished to the inspector, he shall return those books and papers to the entity or person concerned.

(4) An inspector may examine on oath—

(a) any of the persons referred to in sub-section (1);

(b) with the previous approval of the Central Government, any other person in relation to the affairs of the limited liability partnership or any other entity, as the case may be; and

(c) may administer an oath accordingly and for that purpose may require any of those persons to appear before him personally.

(5) If any person fails without reasonable cause or refuses—

(a) to produce before an inspector or any person authorised by him in this behalf with the previous approval of the Central Government any book or paper which it is his duty under sub-section (1) or sub-section (2) to produce ; or

(b) to furnish any information which it is his duty under sub-section (2) to furnish ; or

(c) to appear before the inspector personally when required to do so under sub-section (4) or to answer any question which is put to him by the inspector in pursuance of that sub-section; or

(d) to sign the notes of any examination,

he shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.

(6) The notes of any examination under sub-section (4) shall be taken down in writing and signed by the person whose examination was made on oath and a copy of such notes shall be given to the person so examined on oath and thereafter be used as an evidence by the inspector.

Seizure of
documents
by
inspector.

48. (1) Where in the course of investigation, the inspector has reasonable ground to believe that the books and papers of, or relating to, the limited liability partnership or other entity or partner or designated partner of such limited liability partnership may be destroyed, mutilated, altered, falsified or secreted, the inspector may make an application to the Judicial Magistrate of the First Class, or, as the case may be, the Metropolitan Magistrate, having jurisdiction, for an order for the seizure of such books and papers.

(2) After considering the application and hearing the inspector, if necessary, the Magistrate may, by order, authorise the inspector —

(a) to enter, with such assistance, as may be required, the place or places where such books and papers are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books and papers which the inspector considers it necessary for the purposes of his investigation.

(3) The inspector shall keep in his custody the books and papers seized under this Section for such period not later than the conclusion of the investigation as he considers necessary and thereafter shall return the same to the concerned entity or person from whose custody or power they were seized and inform the Magistrate of such return :

Provided that the books and papers shall not be kept seized for a continuous period of more than six months :

Provided further that the inspector may, before returning such books and papers as aforesaid, place identification marks on them or any part thereof.

(4) Save as otherwise provided in this Section, every search or seizure made under this Section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures made under that Code.

2 of 1974.

Inspector's
report.

49. (1) The Inspectors may, and if so directed by the Central Government, shall make interim reports to that Government, and on the conclusion of the investigation, shall make a final report to the Central Government and any such report shall be written or printed, as the Central Government may direct.

(2) The Central Government—

(a) shall forward a copy of any report (other than an interim report) made by the Inspectors to the limited liability partnership at its registered office, and also to any other entity or person dealt with or related to the report; and

(b) may, if it thinks fit, furnish a copy thereof, on request and on payment of the prescribed fee, to any person or entity related to or affected by the report.

Prosecution.

50. If, from the report under Section 49, it appears to the Central Government that any person in relation to the limited liability partnership or in relation to any other entity whose affairs have been investigated, has been guilty of any offence for which he is liable, the Central Government may prosecute such person for the offence; and it shall be the duty of all partners, designated partners and other employees and agents of the limited liability partnership or other entity, as the case may be, to give the Central Government all assistance in connection with the prosecution which they are reasonably able to give.

Application
for
winding up
of limited
liability
partnership.

51. If any such limited liability partnership is liable to be wound up under this Act or any other law for the time being in force, and it appears to the Central Government from any such report under Section 49 that it is expedient to do so by reason of any such circumstances as are referred to in sub-clause (i) or sub-clause (ii) of clause (c) of sub-section (3) of Section 43, the Central Government may, unless the limited liability partnership is already being wound up by the Tribunal, cause to be presented to the Tribunal by any person authorised by the Central Government in this behalf, a petition for the winding up of the limited liability partnership on the ground that it is just and equitable that it should be wound up.

Proceedings
for
recovery
of
damages
or property.

52. If, from any report under Section 49, it appears to the Central Government that proceedings ought, in the public interest, to be brought by the limited liability partnership or any entity whose affairs have been investigated,—

(a) for the recovery of damages in respect of any fraud, misfeasance or other misconduct in connection with the promotion or formation, or the management of the affairs, of such limited liability partnership or such other entity; or

(b) for the recovery of any property of such limited liability partnership or such other entity, which has been misappropriated or wrongfully retained,

the Central Government may itself bring proceedings for that purpose.

Expenses
of
investigation.

53. (1) The expenses of, and incidental to an investigation by an inspector appointed by the Central Government under this Act shall be defrayed in the first instance by the Central Government; but the following persons shall, to the extent mentioned below, be liable to reimburse the Central Government in respect of such expenses, namely:—

(a) any person who is convicted on a prosecution, or who is ordered to pay damages or restore any property in proceedings brought by virtue of Section 52, may, in the same proceedings, be ordered to pay the said expenses to such extent as may be specified by the court convicting such person, or ordering him to pay such damages or restore such property, as the case may be;

(b) any entity in whose name proceedings are brought as aforesaid shall be liable, to the extent of the amount or value of any sums or property recovered by it as a result of the proceedings; and

(c) unless, as a result of the investigation, a prosecution is instituted in pursuance of Section 50,—

(i) any entity, a partner or designated partner or any other person dealt with by the report of the inspector shall be liable to reimburse the Central Government in respect of the whole of the expenses, unless and except in so far as, the Central Government otherwise directs; and

(ii) the applicants for the investigation, where the inspector was appointed in pursuance of the provisions of clause (a) of sub-section (1) of Section 43, shall be liable to such extent, if any, as the Central Government may direct.

(2) Any amount for which a limited liability partnership or other entity is liable by virtue of clause (b) of sub-section (1) shall be a first charge on the sums or property mentioned in that clause.

(3) The amount of expenses in respect of which any limited liability partnership, other entity, a partner or designated partner or any other person is liable under sub-clause (i) of clause (c) of sub-section (1) to reimburse the Central Government shall be recoverable as arrears of land revenue.

(4) For the purposes of this Section, any costs or expenses incurred by the Central Government or in connection with the proceedings brought by virtue of Section 52 shall be treated as expenses of the investigation giving rise to the proceedings.

Inspector's
report to be
evidence.

54. A copy of any report of any inspector or inspectors appointed under the provision of this Act, authenticated in such manner, if any, as may be prescribed, shall be admissible in any legal proceeding as evidence in relation to any matter contained in the report.

CHAPTER X

CONVERSION INTO LIMITED LIABILITY PARTNERSHIP

Conversion
from firm
into
limited
liability
partnership.

55. A firm may convert into a limited liability partnership in accordance with the provisions of this Chapter and the Second Schedule.

Conversion
from private
company
into limited
liability
partnership.

56. A private company may convert into a limited liability partnership in accordance with the provisions of this Chapter and the Third Schedule.

Conversion
from
unlisted
public
company
into
limited
liability
partnership.

57. An unlisted public company may convert into a limited liability partnership in accordance with the provisions of this Chapter and the Fourth Schedule.

Registration
and effect
of
conversion.

58. (1) The Registrar, on satisfying that a firm, private company or an unlisted public company, as the case may be, has complied with the provisions of the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be, shall, subject to the provisions of this Act and the rules made thereunder, register the documents submitted under such Schedule and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified in the certificate, registered under this Act :

Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform the concerned Registrar of Firms or Registrar of Companies, as the case may be, with which it was registered under the provisions of the Indian Partnership Act, 1932 or the Companies Act, 1956, as the case may be, about the conversion and of the particulars of the limited liability partnership in such form and manner as may be prescribed.

9 of 1932.
1 of 1956.

(2) Upon such conversion, the partners of the firm, the shareholders of private company or unlisted public company, as the case may be, the limited liability partnership to which such firm or such company has converted, and the partners of the limited liability partnership shall be bound by the provisions of the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be, applicable to them.

(3) Upon such conversion, on and from the date of certificate of registration, the effects of the conversion shall be such as specified in the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be.

(4) Notwithstanding anything contained in any other law for the time being in force, on and from the date of registration specified in the certificate of registration issued under the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be,—

(a) there shall be a limited liability partnership by the name specified in the certificate of registration registered under this Act;

(b) all tangible (movable or immovable) and intangible property vested in the firm or the company, as the case may be, all assets, interests, rights, privileges, liabilities, obligations relating to the firm or the company, as the case may be, and the whole of the undertaking of the firm or the company, as the case may be, shall be transferred to and shall vest in the limited liability partnership without further assurance, act or deed; and

(c) the firm or the company, as the case may be, shall be deemed to be dissolved and removed from the records of the Registrar of Firms or Registrar of Companies, as the case may be.

CHAPTER XI

FOREIGN LIMITED LIABILITY PARTNERSHIPS

Foreign limited liability partnerships.

59. The Central Government may make rules for provisions in relation to establishment of place of business by foreign limited liability partnerships within India and carrying on their business therein by applying or incorporating, with such modifications, as appear appropriate, the provisions of the Companies Act, 1956 or such regulatory mechanism with such composition as may be prescribed.

1 of 1956.

CHAPTER XII

COMPROMISE, ARRANGEMENT OR RECONSTRUCTION OF LIMITED LIABILITY PARTNERSHIPS

Compromise, or arrangement of limited liability partnerships.

60. (1) Where a compromise or arrangement is proposed—

- (a) between a limited liability partnership and its creditors; or
- (b) between a limited liability partnership and its partners,

the Tribunal may, on the application of the limited liability partnership or of any creditor or partner of the limited liability partnership, or, in the case of a limited liability partnership which is being wound up, of the liquidator, order a meeting of the creditors or of the partners, as the case may be, to be called, held and conducted in such manner as may be prescribed or as the Tribunal directs.

(2) If a majority representing three-fourths in value of the creditors, or partners, as the case may be, at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Tribunal, by order be binding on all the creditors or all the partners, as the case may be, and also on the limited liability partnership, or in the case of a limited liability partnership which is being wound up, on the liquidator and contributories of the limited liability partnership :

Provided that no order sanctioning any compromise or arrangement shall be made by the Tribunal unless the Tribunal is satisfied that the limited liability partnership or any other person by whom an application has been made under sub-section (1) has disclosed to the Tribunal, by affidavit or otherwise, all material facts relating to the limited liability partnership, including the latest financial position of the limited liability partnership and the pendency of any investigation proceedings in relation to the limited liability partnership.

(3) An order made by the Tribunal under sub-section (2) shall be filed by the limited liability partnership with the Registrar within thirty days after making such an order and shall have effect only after it is so filed.

(4) If default is made in complying with sub-section (3), the limited liability partnership, and every designated partner of the limited liability partnership shall be punishable with fine which may extend to one lakh rupees.

(5) The Tribunal may, at any time after an application has been made to it under this Section, stay the commencement or continuation of any suit or proceeding against the limited liability partnership on such terms as the Tribunal thinks fit, until the application is finally disposed of.

Power of
Tribunal to
enforce
compromise
or
arrangement.

61. (1) Where the Tribunal makes an order under Section 60 sanctioning a compromise or an arrangement in respect of a limited liability partnership, it—

(a) shall have power to supervise the carrying out of the compromise or an arrangement; and

(b) may, at the time of making such order or at any time thereafter, give such directions in regard to any matter or make such modifications in the compromise or arrangement as it may consider necessary for the proper working of the compromise or arrangement.

(2) If the Tribunal aforesaid is satisfied that a compromise or an arrangement sanctioned under Section 60 cannot be worked satisfactorily with or without modifications, it may, either on its own motion or on the application of any person interested in the affairs of the limited liability partnership, make an order for winding up the limited liability partnership, and such an order shall be deemed to be an order made under Section 64 of this Act.

Provisions
for
facilitating
reconstruction
or
amalgamation
of limited
liability
partnerships.

62. (1) Where an application is made to the Tribunal under Section 60 for sanctioning of a compromise or arrangement proposed between a limited liability partnership and any such persons as are mentioned in that Section, and it is shown to the Tribunal that—

(a) compromise or arrangement has been proposed for the purposes of, or in connection with, a scheme for the reconstruction of any limited liability partnership or limited liability partnerships, or the amalgamation of any two or more limited liability partnerships; and

(b) under the scheme the whole or any part of the undertaking, property or liabilities of any limited liability partnership concerned in the scheme (in this Section referred to as a “transferor limited liability partnership”) is to be transferred to another limited liability partnership (in this Section referred to as the “transferee limited liability partnership”),

the Tribunal may, either by the order sanctioning the compromise or arrangement or by a subsequent order, make provisions for all or any of the following matters, namely:—

(i) the transfer to the transferee limited liability partnership of the whole or any part of the undertaking, property or liabilities of any transferor limited liability partnership;

(ii) the continuation by or against the transferee limited liability partnership of any legal proceedings pending by or against any transferor limited liability partnership;

(iii) the dissolution, without winding up, of any transferor limited liability partnership;

(iv) the provision to be made for any person who, within such time and in such manner as the Tribunal directs, dissent from the compromise or arrangement; and

(v) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out :

Provided that no compromise or arrangement proposed for the purposes of, or in connection with, a scheme for the amalgamation of a limited liability partnership, which is being wound up, with any other limited liability partnership or limited liability partnerships, shall be sanctioned by the Tribunal unless the Tribunal has received a report from the Registrar that the affairs of the limited liability partnership have not been conducted in a manner prejudicial to the interests of its partners or to public interest :

Provided further that no order for the dissolution of any transferor limited liability partnership under clause (iii) shall be made by the Tribunal unless the Official Liquidator has, on scrutiny of the books and papers of the limited liability partnership, made a report to the Tribunal that the affairs of the limited liability partnership have not been conducted in a manner prejudicial to the interests of its partners or to public interest.

(2) Where an order under this Section provides for the transfer of any property or liabilities, then, by virtue of the order, that property shall be transferred to and vest in, and those liabilities shall be transferred to and become the liabilities of, the transferee limited liability partnership; and in the case of any property, if the order so directs, freed from any charge which is, by virtue of the compromise or arrangement, to cease to have effect.

(3) Within thirty days after the making of an order under this Section, every limited liability partnership in relation to which the order is made shall cause a certified copy thereof to be filed with the Registrar for registration.

(4) If default is made in complying with the provisions of sub-section (3), the limited liability partnership, every designated partner of the limited liability partnership shall be punishable with fine which may extend to fifty thousand rupees.

Explanation.— In this Section “property” includes property, rights and powers of every description; and “liabilities” includes duties of every description.

CHAPTER XIII

WINDING UP AND DISSOLUTION

Winding up
and
dissolution.

63. The winding up of a limited liability partnership may be either voluntary or by the Tribunal and limited liability partnership, so wound up may be dissolved.

Circumstances
in which
limited
liability
partnership
may be
wound
up by
Tribunal.

64. A limited liability partnership may be wound up by the Tribunal,—

(a) if the limited liability partnership decides that limited liability partnership be wound up by the Tribunal;

(b) if, for a period of more than six months, the number of partners of the limited liability partnership is reduced below two;

- (c) if the limited liability partnership is unable to pay its debts;
- (d) if the limited liability partnership has acted against the interests of the sovereignty and integrity of India, the security of the State or public order;
- (e) if the limited liability partnership has made a default in filing with the Registrar the Statement of Account and Solvency or annual return for any five consecutive financial years; or
- (f) if the Tribunal is of the opinion that it is just and equitable that the limited liability partnership be wound up.

Rules for winding up and dissolution.

65. The Central Government may make rules for the provisions in relation to winding up and dissolution of limited liability partnerships.

Business transactions of partner with limited liability partnership.

Application of the provisions of the Companies Act.

66. A partner may lend money to and transact other business with the limited liability partnership and has the same rights and obligations with respect to the loan or other transactions as a person who is not a partner.

67. (1) The Central Government may, by notification in the Official Gazette, direct that any of the provisions of the Companies Act, 1956 specified in the notification—

1 of 1956.

(a) shall apply to any limited liability partnership; or

(b) shall apply to any limited liability partnership with such exception, modification and adaptation, as may be specified, in the notification.

(2) A copy of every notification proposed to be issued under sub-section (1) shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

Electronic filing of documents.

68. (1) Any document required to be filed, recorded or registered under this Act may be filed, recorded or registered in such manner and subject to such conditions as may be prescribed.

(2) A copy of or an extract from any document electronically filed with or submitted to the Registrar which is supplied or issued by the Registrar and certified through affixing digital signature as per the Information Technology Act, 2000 to be a true copy of or extract from such document shall, in any proceedings, be admissible in evidence as of equal validity with the original document.

21 of 2000.

(3) Any information supplied by the Registrar that is certified by the Registrar through affixing digital signature to be a true extract from any document filed with or submitted to the Registrar shall, in any proceedings, be admissible in evidence and be presumed, unless evidence to the contrary is adduced, to be a true extract from such document.

Payment of additional fee.

69. Any document or return required to be filed or registered under this Act with the Registrar, if, is not filed or registered in time provided therein, may be filed or registered after that time up to a period of three hundred days from the date within which it should have been filed, on payment of additional fee of one hundred rupees for everyday of such delay in addition to any fee as is payable for filing of such document or return :

Provided that such document or return may, without prejudice to any other action or liability under this Act, also be filed after such period of three hundred days on payment of fee and additional fee specified in this Section.

Enhanced punishment.

70. In case a limited liability partnership or any partner or designated partner of such limited liability partnership commits any offence, the limited liability partnership or any partner or designated partner shall, for the second or subsequent offence, be punishable with imprisonment as provided, but in case of offences for which fine is prescribed either along with or exclusive of imprisonment, with fine which shall be twice the amount of fine for such offence.

Application of other laws not barred.

71. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Jurisdiction of Tribunal and Appellate Tribunal.

72. (1) The Tribunal shall exercise such powers and perform such functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force.

(2) Any person aggrieved by an order or decision of Tribunal may prefer an appeal to the Appellate Tribunal and the provisions of Sections 10FQ, 10FZA, 10G, 10GD, 10GE and 10GF of the Companies Act, 1956 shall be applicable in respect of such appeal.

1 of 1956.

Penalty on non-compliance of any order passed by Tribunal.

73. Whoever fails to comply with any order made by the Tribunal under any provision of this Act shall be punishable with imprisonment which may extend to six months and shall also be liable to a fine which shall not be less than fifty thousand rupees.

General penalties.

74. Any person guilty of an offence under this Act for which no punishment is expressly provided shall be liable to a fine which may extend to five lakh rupees but which shall not be less than five thousand rupees and with a further fine which may extend to fifty rupees for every day after the first day after which the default continues.

Power of Registrar to strike defunct limited liability partnership off register.

75. Where the Registrar has reasonable cause to believe that a limited liability partnership is not carrying on business or its operation, in accordance with the provisions of this Act, the name of limited liability partnership may be struck off the register of limited liability partnerships in such manner as may be prescribed :

Provided that the Registrar shall, before striking off the name of any limited liability partnership under this Section, give such limited liability partnership a reasonable opportunity of being heard.

Offences by limited liability partnerships.

76. Where an offence under this Act committed by a limited liability partnership is proved —

(a) to have been committed with the consent or connivance of a partner or partners or designated partner or designated partners of the limited liability partnership; or

(b) to be attributable to any neglect on the part of the partner or partners or designated partner or designated partners of that limited liability partnership,

the partner or partners or designated partner or designated partners of the limited liability partnership, as the case may be, as well as that limited liability partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Jurisdiction of Court.

77. Notwithstanding any provision to the contrary in any Act for the time being in force, the Judicial Magistrate of the First Class or, as the case may be, the Metropolitan Magistrate shall have jurisdiction to try any offence under this Act and shall have power to impose punishment in respect of said offence.

Power to alter Schedules.

78. (1) The Central Government may, by notification in the Official Gazette, alter any of the provisions contained in any of the Schedules to this Act.

(2) Any alteration notified under sub-section (1) shall have effect as if enacted in the Act and shall come into force on the date of the notification, unless the notification otherwise directs.

(3) Every alteration made by the Central Government under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the alteration, or both Houses agree that the alteration should not be made, the alteration shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done in pursuance of that alteration.

Power to
make
rules.

79. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) form and manner of prior consent to be given by designated partner under sub-section (3) of Section 7;

(b) the form and manner of particulars of every individual agreeing to act as designated partner of limited liability partnership under sub-section (4) of Section 7;

(c) the conditions and requirements relating to the eligibility of an individual to become a designated partner under sub-section (5) of Section 7;

(d) the manner of filing the incorporation document and payment of fees payable thereof under clause (b) of sub-section (1) of Section 11;

(e) the form of statement to be filed under clause (c) of sub-section (1) of Section 11;

(f) the form of incorporation document under clause (a) of sub-section (2) of Section 11;

(g) the information to be contained in the incorporation document concerning the proposed limited liability partnership under clause (g) of sub-section (2) of Section 11;

(h) the manner of serving the documents on a limited liability partnership or a partner or a designated partner and the form and manner in which any other address may be declared by the limited liability partnership under sub-section (2) of Section 13;

(i) the form and manner of notice to the Registrar and the conditions in respect of change of registered office under sub-section (3) of Section 13;

(j) the form and manner of application and amount of fee payable to the Registrar under sub-section (1) of Section 16;

(k) the manner in which names will be reserved by the Registrar under sub-section (2) of Section 16;

(l) the manner in which an application may be made by an entity under sub-section (1) of Section 18;

(m) the form and manner of notice of change of name of limited liability partnership and the amount of fee payable under Section 19;

(n) the form and manner of the limited liability partnership agreement and the changes made therein and the amount of fee payable under sub-section (2) of Section 23;

(o) the form of notice, the amount of fee payable and the manner of authentication of the statement under clauses (a), (b) and (c) of sub-section (3) of Section 25;

(p) the manner of accounting and disclosure of monetary value of contribution of a partner under sub-section (2) of Section 32;

(q) the books of account and the period of their maintenance under sub-section (1) of Section 34;

(r) the form of Statement of Account and Solvency under sub-section (2) of Section 34;

(s) the form, manner, fee and time of filing of Statement of Account and Solvency under sub-section (3) of Section 34;

(t) the audit of accounts of a limited liability partnership under sub-section (4) of Section 34;

(u) the form and manner of annual return and fee payable under sub-section (1) of Section 35;

(v) the manner and amount of fee payable for inspection of incorporation document, names of partners and changes made therein, Statement of Account and Solvency and annual return under Section 36;

(w) the destruction of documents by Registrar in any form under Section 40;

(x) the amount required as security under clause (a) of sub-section (3) of Section 43;

(y) the amount of security to be given under Section 44;

(z) the fee payable for furnishing a copy under clause (b) of sub-section (2) of Section 49;

(za) the manner of authentication of report of inspector under Section 54;

(zb) the form and manner of particulars about conversion under the proviso to sub-section (1) of Section 58;

(zc) in relation to establishment of place of business and carrying on business in India by foreign limited liability partnerships and regulatory mechanism and composition under Section 59;

(zd) the manner of calling, holding and conducting meeting under sub-section (1) of Section 60;

(ze) in relation to winding up and dissolution of limited liability partnerships under Section 65;

(zf) the manner and conditions for filing document electronically under sub-section (1) of Section 68;

(zg) the manner for striking off the names of limited liability partnerships from the register under Section 75;

(zh) the form and manner of statement containing particulars and amount of fee payable under sub-paragraph (a) of paragraph 4 of the Second Schedule;

(zi) the form and manner of particulars about conversion under proviso to paragraph 5 of the Second Schedule;

(zj) the form and manner of the statement and the amount of fee payable under sub-paragraph (a) of paragraph 3 of the Third Schedule;

(zk) the form and manner of particulars about conversion under the proviso to paragraph 4 of the Third Schedule;

(zl) the form and manner of the statement and amount of fee payable under sub-paragraph (a) of paragraph 4 of the Fourth Schedule; and

(zm) the form and manner of particulars about conversion under the proviso to paragraph 5 of the Fourth Schedule.

(3) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties.

80. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty :

Provided that no such order shall be made under this Section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this Section shall be laid, as soon as may be, after it is made, before each House of Parliament.

Transitional provisions.

81. Until the Tribunal and the Appellate Tribunal are constituted under the provisions of the Companies Act, 1956, the provisions of this Act shall have effect subject to the following modifications, namely:—

(a) for the word “Tribunal” occurring in clause (b) of sub-section (1) of Section 41, clause (a) of sub-section (1) of Section 43 and Section 44, the words “Company Law Board” had been substituted;

(b) for the word “Tribunal” occurring in Section 51 and in Sections 60 to 64, the words “High Court” had been substituted;

(c) for the words “Appellate Tribunal” occurring in sub-section (2) of Section 72, the words “High Court” had been substituted.

THE FIRST SCHEDULE

[See Section 23(4)]

**PROVISIONS REGARDING MATTERS RELATING TO MUTUAL RIGHTS AND DUTIES OF PARTNERS
AND LIMITED LIABILITY PARTNERSHIP AND ITS PARTNERS APPLICABLE IN THE ABSENCE OF
ANY AGREEMENT ON SUCH MATTERS.**

1. The mutual rights and duties of the partners and the mutual rights and duties of the limited liability partnership and its partners shall be determined, subject to the terms of any limited liability partnership agreement or in the absence of any such agreement on any matter, by the provisions in this Schedule.
2. All the partners of a limited liability partnership are entitled to share equally in the capital, profits and losses of the limited liability partnership.
3. The limited liability partnership shall indemnify each partner in respect of payments made and personal liabilities incurred by him —
 - (a) in the ordinary and proper conduct of the business of the limited liability partnership; or
 - (b) in or about anything necessarily done for the preservation of the business or property of the limited liability partnership.
4. Every partner shall indemnify the limited liability partnership for any loss caused to it by his fraud in the conduct of the business of the limited liability partnership.
5. Every partner may take part in the management of the limited liability partnership.
6. No partner shall be entitled to remuneration for acting in the business or management of the limited liability partnership.
7. No person may be introduced as a partner without the consent of all the existing partners.
8. Any matter or issue relating to the limited liability partnership shall be decided by a resolution passed by a majority in number of the partners, and for this purpose, each partner shall have one vote. However, no change may be made in the nature of business of the limited liability partnership without the consent of all the partners.
9. Every limited liability partnership shall ensure that decisions taken by it are recorded in the minutes within thirty days of taking such decisions and are kept and maintained at the registered office of the limited liability partnership.
10. Each partner shall render true accounts and full information of all things affecting the limited liability partnership to any partner or his legal representatives.
11. If a partner, without the consent of the limited liability partnership, carries on any business of the same nature as and competing with the limited liability partnership, he must account for and pay over to the limited liability partnership all profits made by him in that business.

12. Every partner shall account to the limited liability partnership for any benefit derived by him without the consent of the limited liability partnership from any transaction concerning the limited liability partnership, or from any use by him of the property, name or any business connection of the limited liability partnership.

13. No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners.

14. All disputes between the partners arising out of the limited liability partnership agreement which cannot be resolved in terms of such agreement shall be referred for arbitration as per the provisions of the Arbitration and Conciliation Act, 1996.

26 of 1996.

THE SECOND SCHEDULE

(See Section 55)

CONVERSION FROM FIRM INTO LIMITED LIABILITY PARTNERSHIP

Interpretation.

1. In this Schedule, unless the context otherwise requires,—

(a) "firm" means a firm as defined in Section 4 of the Indian Partnership Act, 1932;

9 of 1932.

(b) "convert", in relation to a firm converting into a limited liability partnership, means a transfer of the property, assets, interests, rights, privileges, liabilities, obligations and the undertaking of the firm to the limited liability partnership in accordance with this Schedule.

Conversion
from firm
into
limited
liability
partnership.

2. (1) A firm may convert into a limited liability partnership by complying with the requirements as to the conversion set out in this Schedule.

(2) Upon such conversion, the partners of the firm shall be bound by the provisions of this Schedule that are applicable to them.

Eligibility for
conversion.

3. A firm may apply to convert into a limited liability partnership in accordance with this Schedule if and only if the partners of the limited liability partnership into which the firm is to be converted, comprise, all the partners of the firm and no one else.

Statements
to be filed.

4. A firm may apply to convert into a limited liability partnership by filing with the Registrar —

(a) a statement by all of its partners in such form and manner and accompanied by such fee as the Central Government may prescribe, containing the following particulars, namely:—

(i) the name and registration number, if applicable, of the firm; and

(ii) the date on which the firm was registered under the Indian Partnership Act, 1932 or under any other law, if applicable, and

9 of 1932.

(b) incorporation document and statement referred to in Section 11.

Registration of conversion. 5. On receiving the documents referred to in paragraph 4, the Registrar shall subject to the provisions of this Act, register the documents and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified in the certificate, registered under this Act:

Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform, the concerned Registrar of Firms with which it was registered under the provisions of the Indian Partnership Act, 1932 about the conversion and of the particulars of the limited liability partnership in such form and manner as the Central Government may prescribe.

9 of 1932.

Registrar may refuse to register. 6. (1) Nothing in this Schedule shall be construed as to require the Registrar to register any limited liability partnership if he is not satisfied with the particulars or other information furnished under the provisions of this Act:

Provided that an appeal may be made before the Tribunal in case of refusal of registration by the Registrar.

(2) The Registrar may, in any particular case, require the documents referred to in paragraph 4 to be verified in such manner, as he considers fit.

Effect of registration. 7. On and from the date of registration specified in the certificate of registration issued under paragraph 5,—

(a) there shall be a limited liability partnership by the name specified in the certificate of registration registered under this Act;

(b) all tangible (movable and immovable) property as well as intangible property vested in the firm, all assets, interests, rights, privileges, liabilities, obligations relating to the firm and the whole of the undertaking of the firm shall be transferred to and shall vest in the limited liability partnership without further assurance, act or deed; and

(c) the firm shall be deemed to be dissolved and if earlier registered under the Indian Partnership Act, 1932 removed from the records maintained under that Act.

9 of 1932.

Registration in relation to property. 8. If any property to which sub-paragraph (b) of paragraph 7 applies is registered with any authority, the limited liability partnership shall, as soon as practicable after the date of registration, take all necessary steps as required by the relevant authority to notify the authority of the conversion and of the particulars of the limited liability partnership in such medium and form as the authority may specify.

Pending proceedings. 9. All proceedings by or against the firm which are pending in any Court or Tribunal or before any authority on the date of registration may be continued, completed and enforced by or against the limited liability partnership.

Continuance of conviction, ruling, order or judgment. 10. Any conviction, ruling, order or judgment of any Court, Tribunal or other authority in favour of or against the firm may be enforced by or against the limited liability partnership.

Existing agreements.

11. Every agreement to which the firm was a party immediately before the date of registration, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from that date as if —

(a) the limited liability partnership were a party to such an agreement instead of the firm; and

(b) for any reference to the firm, there were substituted in respect of anything to be done on or after the date of registration a reference to the limited liability partnership.

Existing contracts, etc.

12. All deeds, contracts, schemes, bonds, agreements, applications, instruments and arrangements subsisting immediately before the date of registration relating to the firm or to which the firm is a party, shall continue in force on and after that date as if they relate to the limited liability partnership and shall be enforceable by or against the limited liability partnership as if the limited liability partnership were named therein or were a party thereto instead of the firm.

Continuance of employment.

13. Every contract of employment to which paragraph 11 or paragraph 12 applies shall continue to be in force on or after the date of registration as if the limited liability partnership were the employer thereunder instead of the firm.

Existing appointment, authority or power.

14. (1) Every appointment of the firm in any role or capacity which is in force immediately before the date of registration shall take effect and operate from that date as if the limited liability partnership were appointed.

(2) Any authority or power conferred on the firm which is in force immediately before the date of registration shall take effect and operate from that date as if it were conferred on the limited liability partnership.

Application of paragraphs 7 to 14.

15. The provisions of paragraphs 7 to 14 (both inclusive) shall apply to any approval, permit or licence issued to the firm under any other Act which is in force immediately before the date of registration of the limited liability partnership, subject to the provisions of such other Act under which such approval, permit or licence has been issued.

Partner liable for liabilities and obligations of firm before conversion.

16. (1) Notwithstanding anything in paragraphs 7 to 14 (both inclusive), every partner of a firm that has converted into a limited liability partnership shall continue to be personally liable (jointly and severally with the limited liability partnership) for the liabilities and obligations of the firm which were incurred prior to the conversion or which arose from any contract entered into prior to the conversion.

(2) If any such partner discharges any liability or obligation referred to in sub-paragraph (1), he shall be entitled (subject to any agreement with the limited liability partnership to the contrary) to be fully indemnified by the limited liability partnership in respect of such liability or obligation.

Notice of
conversion
in
corres-
pondence.

17. (1) The limited liability partnership shall ensure that for a period of twelve months commencing not later than fourteen days after the date of registration, every official correspondence of the limited liability partnership bears the following :

(a) a statement that it was, as from the date of registration, converted from a firm into a limited liability partnership; and

(b) the name and registration number, if applicable, of the firm from which it was converted.

(2) Any limited liability partnership which contravenes the provisions of sub-paragraph (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.

THE THIRD SCHEDULE

(See Section 56)

CONVERSION FROM PRIVATE COMPANY INTO LIMITED LIABILITY PARTNERSHIP

Interpretation.

1. In this Schedule, unless the context otherwise requires,—

(a) “company” means a private company as defined in clause (iii) of sub-section (1) of Section 3 of the Companies Act, 1956;

1 of 1956.

(b) “convert”, in relation to a private company converting into a limited liability partnership, means a transfer of the property, assets, interests, rights, privileges, liabilities, obligations and the undertaking of the private company to the limited liability partnership in accordance with this Schedule.

Eligibility for
conversion
of private
companies
into limited
liability
partnership.

2. (1) A company may convert into a limited liability partnership by complying with the requirements as to the conversion set out in this Schedule.

(2) A company may apply to convert into a limited liability partnership in accordance with this Schedule if and only if—

(a) there is no security interest in its assets subsisting or in force at the time of application; and

(b) the partners of the limited liability partnership to which it converts comprise all the shareholders of the company and no one else.

(3) Upon such conversion, the company, its shareholders, the limited liability partnership into which the company has converted and the partners of that limited liability partnership shall be bound by the provisions of this Schedule that are applicable to them.

Statements
to be filed.

3. A company may apply to convert into a limited liability partnership by filing with the Registrar—

(a) a statement by all its shareholders in such form and manner to be accompanied by such fees as the Central Government may prescribe, containing the following particulars, namely:—

(i) the name and registration number of the company;

(ii) the date on which the company was incorporated;
and

(b) incorporation document and statement referred to in Section 11.

Registration
of
conversion.

4. On receiving the documents referred to in paragraph 3, the Registrar shall, subject to the provisions of this Act and the rules made thereunder, register the documents and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified in the certificate, registered under this Act:

Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform the concerned Registrar of Companies with which it was registered under the provisions of the Companies Act, 1956 about the conversion and of the particulars of the limited liability partnership in such form and manner as the Central Government may prescribe.

1 of 1956.

Registrar
may
refuse to
register.

5. (1) Nothing in this Schedule shall be construed as to require the Registrar to register any limited liability partnership if he is not satisfied with the particulars or other information furnished under the provisions of this Act:

Provided that an appeal may be made before the Tribunal in case of refusal of registration by the Registrar.

(2) The Registrar may, in any particular case, require the documents referred to in paragraph 3 to be verified in such manner, as he considers fit.

Effect of
registration.

6. On and from the date of registration specified in the certificate of registration issued under paragraph 4—

(a) there shall be a limited liability partnership by the name specified in the certificate of registration registered under this Act;

(b) all tangible (movable or immovable) and intangible property vested in the company, all assets, interests, rights, privileges, liabilities, obligations relating to the company and the whole of the undertaking of the company shall be transferred to and shall vest in the limited liability partnership without further assurance, act or deed; and

(c) the company shall be deemed to be dissolved and removed from the records of the Registrar of Companies.

Registration in relation to property. 7. If any property to which clause (b) of paragraph 6 applies is registered with any authority, the limited liability partnership shall, as soon as practicable, after the date of registration, take all necessary steps as required by the relevant authority to notify the authority of the conversion and of the particulars of the limited liability partnership in such form and manner as the authority may determine.

Pending proceedings. 8. All proceedings by or against the company which are pending before any Court, Tribunal or other authority on the date of registration may be continued, completed and enforced by or against the limited liability partnership.

Continuance of conviction, ruling, order or judgment. 9. Any conviction, ruling, order or judgment of any Court, Tribunal or other authority in favour of or against the company may be enforced by or against the limited liability partnership.

Existing agreements. 10. Every agreement to which the company was a party immediately before the date of registration, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from that date as if —

- (a) the limited liability partnership were a party to such an agreement instead of the company; and
- (b) for any reference to the company, there were substituted in respect of anything to be done on or after the date of registration a reference to the limited liability partnership.

Existing contracts, etc. 11. All deeds, contracts, schemes, bonds, agreements, applications, instruments and arrangements subsisting immediately before the date of registration relating to the company or to which the company is a party shall continue in force on and after that date as if they relate to the limited liability partnership and shall be enforceable by or against the limited liability partnership as if the limited liability partnership were named therein or were a party thereto instead of the company.

Continuance of employment. 12. Every contract of employment to which paragraph 10 or paragraph 11 applies shall continue in force on or after the date of registration as if the limited liability partnership were the employer thereunder instead of the company.

Existing appointment, authority or power. 13. (1) Every appointment of the company in any role or capacity which is in force immediately before the date of registration shall take effect and operate from that date as if the limited liability partnership were appointed.

- (2) Any authority or power conferred on the company which is in force immediately before the date of registration shall take effect and operate from that date as if it were conferred on the limited liability partnership.

Application of paragraphs 6 to 13. 14. The provisions of paragraphs 6 to 13 (both inclusive) shall apply to any approval, permit or licence issued to the company under any other Act which is in force immediately before the date of registration of the limited liability partnership, subject to the provisions of such other Act under which such approval, permit or licence has been issued.

Notice of
conversion
in
correspon-
dence.

15. (1) The limited liability partnership shall ensure that for a period of twelve months commencing not later than fourteen days after the date of registration, every official correspondence of the limited liability partnership bears the following, namely :—

(a) a statement that it was, as from the date of registration, converted from a company into a limited liability partnership; and

(b) the name and registration number of the company from which it was converted.

(2) Any limited liability partnership which contravenes the provisions of sub-paragraph (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.

THE FOURTH SCHEDULE

(See Section 57)

CONVERSION FROM UNLISTED PUBLIC COMPANY INTO LIMITED LIABILITY PARTNERSHIP

Interpretation.

1. (1) In this Schedule, unless the context otherwise requires,—

(a) “company” means an unlisted public company;

(b) “convert”, in relation to a company converting into a limited liability partnership, means a transfer of the property, assets, interests, rights, privileges, liabilities, obligations and the undertaking of the company to the limited liability partnership in accordance with the provisions of this Schedule;

(c) “listed company” means a listed company as defined in the Securities Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000 issued by the Securities and Exchange Board of India under Section 11 of the Securities and Exchange Board of India Act, 1992;

(d) “unlisted public company” means a company which is not a listed company.

Conversion
of
company
into a
limited
liability
partnership.

2. (1) A company may convert into a limited liability partnership by complying with the requirements as to the conversion set out in this Schedule.

(2) Upon such conversion, the company, its shareholders, the limited liability partnership into which the company has converted and the partners of that limited liability partnership shall be bound by the provisions of this Schedule that are applicable to them.

15 of 1992.

Eligibility for conversion.

3. A company may apply to convert into a limited liability partnership in accordance with the provisions of this Schedule if and only if—

- (a) there is no security interest in its assets subsisting or in force at the time of application; and
- (b) the partners of the limited liability partnership to which it converts comprise all the shareholders of the company and no one else.

Statements to be filed.

4. A company may apply to convert into a limited liability partnership by filing with the Registrar—

(a) a statement by all its shareholders in such form and manner to be accompanied by such fee as the Central Government may prescribe containing the following particulars, namely:—

- (i) the name and registration number of the company;
- (ii) the date on which the company was incorporated; and

(b) incorporation document and statement referred to in Section 11.

Registration of conversion.

5. On receiving the documents referred to in paragraph 4, the Registrar shall, subject to the provisions of this Act, and the rules made thereunder, register the documents and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified in the certificate, registered under this Act :

Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform the concerned Registrar of Companies with which it was registered under the provisions of the Companies Act, 1956 about the conversion and of the particulars of the limited liability partnership in such form and manner as the Central Government may prescribe.

Registrar may refuse to register.

6. (1) Nothing in this Schedule shall be construed as to require the Registrar to register any limited liability partnership if he is not satisfied with the particulars or other information furnished under the provisions of this Act :

Provided that an appeal may be made before the Tribunal in case of refusal of registration by the Registrar.

(2) The Registrar may, in any particular case, require the documents referred to in paragraph 4 to be verified in such manner, as he considers fit.

Effect of registration.

7. On and from the date of registration specified in the certificate of registration issued under paragraph 5—

(a) there shall be a limited liability partnership by the name specified in the certificate of registration registered under this Act;

(b) all tangible (movable or immovable) and intangible property vested in the company, all assets, interests, rights, privileges, liabilities, obligations relating to the company and the whole of the undertaking of the company shall be transferred to and shall vest in the limited liability partnership without further assurance, act or deed; and

(c) the company shall be deemed to be dissolved and removed from the records of the Registrar of Companies.

Registration in relation to property. 8. If any property to which clause (b) of paragraph 7 applies is registered with any authority, the limited liability partnership shall, as soon as practicable, after the date of registration, take all necessary steps as required by the relevant authority to notify the authority of the conversion and of the particulars of the limited liability partnership in such form and manner as the authority may determine.

Pending proceedings. 9. All proceedings by or against the company which are pending in any Court or Tribunal or before an authority on the date of registration may be continued, completed and enforced by or against the limited liability partnership.

Continuance of conviction, ruling, order or judgment. 10. Any conviction, ruling, order or judgment of any Court, Tribunal or other authority in favour of or against the company may be enforced by or against the limited liability partnership.

Existing agreements. 11. Every agreement to which the company was a party immediately before the date of registration, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from that date as if —

(a) the limited liability partnership were a party to such an agreement instead of the company; and

(b) for any reference to the company, there were substituted in respect of anything to be done on or after the date of registration a reference to the limited liability partnership.

Existing contracts, etc. 12. All deeds, contracts, schemes, bonds, agreements, applications, instruments and arrangements subsisting immediately before the date of registration relating to the company or to which the company is a party shall continue in force on and after that date as if they relate to the limited liability partnership and shall be enforceable by or against the limited liability partnership as if the limited liability partnership were named therein or were a party thereto instead of the company.

Continuance of employment. 13. Every contract of employment to which paragraph 11 or paragraph 12 applies shall continue in force on or after the date of registration as if the limited liability partnership were the employer thereunder instead of the company.

Existing appointment, authority or power. 14. (1) Every appointment of the company in any role or capacity which is in force immediately before the date of registration shall take effect and operate from that date as if the limited liability partnership were appointed.

(2) Any authority or power conferred on the company which is in force immediately before the date of registration shall take effect and operate from that date as if it were conferred on the limited liability partnership.

Application
of
paragraphs
7 to 14.

15. The provisions of paragraphs 7 to 14 (both inclusive) shall apply to any approval, permit or licence issued to the company under any other Act which is in force immediately before the date of registration of the limited liability partnership, subject to the provisions of such other Act under which such approval, permit or licence has been issued.

Notice of
conversion
in
correspon-
dence

16. (1) The limited liability partnership shall ensure that for a period of twelve months commencing not later than fourteen days after the date of registration, every official correspondence of the limited liability partnership bears the following, namely:—

(a) a statement that it was, as from the date of registration, converted from a company into a limited liability partnership; and

(b) the name and registration number of the company from which it was converted.

(2) Any limited liability partnership which contravenes the provisions of sub-paragraph (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.

THE COLLECTION OF STATISTICS ACT, 2008

ARRANGEMENT OF SECTIONS

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Assented to on the 7th January 2009

THE COLLECTION OF STATISTICS ACT, 2008

(CENTRAL ACT No. 7 OF 2009)

An Act to facilitate the collection of statistics on economic, demographic, social, scientific and environmental aspects, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Collection of Statistics Act, 2008.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “agency” includes a person or persons engaged by the appropriate Government, directly or by outsourcing, for collection of statistics;

(b) “appropriate Government” means—

(i) any Ministry or Department in the Central Government; or

(ii) any Ministry or Department in a State Government or Union Territory Administration; or

(iii) any local Government that is to say, Panchayats or Municipalities, as the case may be, in relation to the collection of statistics under a direction issued by it under Section 3;

(c) “informant” means any person, who supplies or is required to supply statistical information and includes a owner or occupier or person in-charge or his authorised representative in respect of persons or a firm registered under the Indian Partnership Act, 1932 or a co-operative society registered under any Co-operative Societies Act or a company registered under the Companies Act, 1956 or a society registered under the Societies Registration Act, 1860 or any association recognised or registered under any law for the time being in force;

9 of 1932.

(d) “information schedule” means any book, document, form, card, tape, disc or any storage media on which information required is entered or recorded or is required to be entered or recorded for statistical purposes under this Act;

1 of 1956.

(e) “prescribed” means prescribed by rules made under this Act;

21 of 1860.

(f) “sampling” means a statistical procedure by which information relating to a particular field of inquiry is derived by applying statistical techniques to information obtained in respect of a proportion of the total number of persons or units concerned relevant to the field of inquiry;

(g) "statistical survey" means a census or a survey, whereby information is collected from all the informants in the field of inquiry or from a sample thereof, by an appropriate Government under this Act or any other relevant Act, wholly or primarily for the purposes of processing and summarising by appropriate statistical procedures;

(h) "statistics" means statistics derived by collecting, classifying and using statistics, specially in or for large quantities or numbers by appropriate Government from statistical surveys, administrative and registration records, and other forms and papers, the statistical analysis of which are, whether in a published or unpublished form;

(i) "statistics officer" means any officer appointed under Section 4 for the purposes of any direction issued under Section 3 of this Act.

CHAPTER II

COLLECTION OF STATISTICS

Collection
of
statistics.

3. The appropriate Government may, by notification in the Official Gazette, direct that the statistics on economic, demographic, social, scientific and environmental aspects shall be collected through a statistical survey or otherwise, and thereupon the provisions of this Act shall apply in relation to those statistics :

Provided that—

(a) nothing contained in this Section shall be deemed to authorise a State Government or Union Territory Administration or any local Government to issue any direction with respect to the collection of statistics relating to any matter falling under any of the entries specified in List I (Union List) in the Seventh Schedule to the Constitution; or

(b) where the Central Government has issued any direction under this Section for the collection of statistics relating to any matter, no State Government or Union Territory Administration or any local Government shall, except with the previous approval of the Central Government, issue any similar direction for so long as the collection of such statistics by the Central Government remain to be completed; or

(c) where a State Government or Union Territory Administration or any local Government has issued a direction under this Section for the collection of statistics relating to any matter, the Central Government shall not issue any similar direction for so long as the collection of such statistics by the State Government remain to be completed, except in cases where such statistics have to be collected with reference to two or more States or Union Territories.

Powers of
appropriate
Government
to appoint
statistics
officer, etc.

4. (1) The appropriate Government may appoint or cause to appoint an officer to be the statistics officer for any geographical unit for the purpose of collecting any statistics directed by it.

(2) The appropriate Government may appoint any agency or persons working in such agencies to take, or aid in, or supervise the collection of the statistics within any specified geographical unit and such agencies or persons, when so appointed, shall be bound to serve accordingly.

(3) The appropriate Government may employ on contract basis any agency or company or organisation or association or person, on such terms and conditions and on such safeguards as may be prescribed, for the purpose of collecting the statistics directed by it.

(4) The appropriate Government may delegate to any statistics officer, as it thinks fit, the power of appointing agencies or persons working in such agencies or employing on contract basis any agency or company or organisation or association of persons, conferred on it by sub-sections (2) and (3) within the geographical unit for which such statistics officer is appointed.

(5) The appropriate Government may, by order specify the form, the particulars required or the interval within which, and the statistics officer to whom, the statistical information by the informants shall be furnished.

(6) The appropriate Government may, by order published in the Official Gazette, delegate to any statistics officer, as it thinks fit, any power conferred under sub-section (5) for the purpose of the collection of statistics under a direction issued by it under Section 3.

Power of
statistics
officer to
call for
information.

5. The statistics officer may, for the purpose of collection of statistics on any specified subject in any geographical unit for which the said officer was appointed—

(a) serve or cause to be served on any informant a notice in writing asking him to furnish the information specified under sub-section (5) of Section 4 or cause a information schedule to be given to any informant for the purpose of its being filled up; or

(b) cause all questions relating to the subject to be asked from any informant; or

(c) seek information through tele fax or telephone or e-mail or in any other electronic mode or in a combination of different modes for different sets of information so specified.

Duty of
informants.

6. The informants who are asked to furnish any information under the provisions of this Act shall be bound to furnish the information so asked in the prescribed manner to the best of knowledge or belief; and in cases where only a portion of a particular class or group of persons or units is asked to furnish information because of any sampling procedure, it shall not be a defence in failure on the part of any informant to furnish that information, if so asked.

All
agencies to
assist.

7. Every agency shall render such help and assistance and furnish such information to the statistics officer or a person or an agency authorised by him in writing, as he may require for the discharge of his functions, and shall make available for inspection and examination of such records, plans and other documents, as may be necessary.

Right of
access to
records or
documents.

8. The statistics officer or any person authorised by him in writing in this behalf shall, for the purposes of collection of any statistics under this Act, have access to any relevant record or document in the possession of any informant required to furnish any information under this Act, and may enter at any reasonable time any premises where he believes such record or document is kept and may inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information required to be furnished under this Act.

CHAPTER III

DISCLOSURE OF INFORMATION IN CERTAIN CASES AND RESTRICTIONS OF THEIR USE

Security of
information.

9. (1) Any information furnished to the statistics officer or to any person or agencies authorised under this Act shall only be used for statistical purposes.

(2) No person other than a person engaged in the work of collection of statistics under this Act or preparation of statistics resultant to such collection shall be permitted to see any information schedule or any answer to a question asked, except for the purposes of a prosecution under this Act.

(3) No information contained in any information schedule and no answer to any question asked shall, except for the purposes of a prosecution under this Act, be separately published, or disclosed without suppressing the identification of informants to any agency.

(4) All statistical information published by any agency shall be arranged in such a manner so as to prevent any particulars becoming identifiable by any person (other than the informant by whom those particulars were supplied) as the particulars relating to the informant who supplied it, even through the process of elimination, unless—

(a) that informant has consented to their publication in that manner; or

(b) their publication in that manner could not reasonably have been foreseen by the concerned agency or any employee thereof.

(5) For the purposes of sub-section (4), the Central Government may make such rules or make such arrangement, as it may consider necessary.

Appropriate
Government
authorised
to disclose
certain
information.

10. Notwithstanding the provisions contained in Section 9 of this Act, the appropriate Government may disclose the following information, namely:-

(a) information supplied by informant in respect of which disclosure is consented to in writing by the informant or by any person authorised by the said informant;

(b) information otherwise available to the public under any Act or as a public document;

(c) information in the form of an index or list of the names and addresses of informants together with the classification, if any, allotted to them and the number of persons engaged.

Disclosure
of
information
schedules
for *bona
fide*
research
or
statistical
purposes.

11. (1) Notwithstanding the provisions contained in Section 9 of this Act, the appropriate Government may disclose individual returns or formats or information schedules to other agency or person or institutions or universities solely for *bona fide* research or statistical purposes pursuant to their functions and duties.

(2) No individual return or information schedule shall be disclosed pursuant to this Section unless—

(a) the name and address of the informant by whom the schedule or related information was supplied is deleted;

(b) every agency or person or institutions or Universities involved in the research or statistical project makes a declaration to use the schedules disclosed to them only for *bona fide* research or statistical purposes; and

(c) the appropriate Government, making such disclosure is satisfied that the security of the schedules and any information contained therein shall not be impaired.

(3) The published results of any research or statistical project shall not divulge any more information than what the agency authorised for collection of statistics could publish under this Act.

(4) Every agency or person or institutions or universities to whom any individual return or information schedule is disclosed under this Section shall comply with directions given by the agency authorised for collection of statistics making the disclosure relating to the schedules and any information contained therein.

Disclosure
of historical
documents.

12. Notwithstanding anything contained in Section 9 of this Act, the appropriate Government may release such documents relating to information schedules, which in its opinion have attained historical importance.

Security of
recorded
information.

13. The statistics officer or any person or agency authorised for collection of statistics shall, while copying or recording any statistical information collected pursuant to this Act from individual returns, information schedules, worksheets or any other confidential source by means of cards, tapes, discs, film or any other method, whether using encoded or plain language symbols for processing, storage or reproduction of particulars, take and cause to take such steps as are necessary to ensure that the security provisions of this Act are complied with.

Restrictions
on use of
information.

14. Save as otherwise provided under this Act,—

(a) no information obtained pursuant to this Act and no copy of the information in the possession of any informant shall be disclosed or used as evidence in any proceedings whatsoever; and

(b) no person who has access to any information because of his official position in the collection of any statistics shall be compelled in any proceedings whatsoever to give oral testimony regarding the information or to produce any schedule, document, or record with respect to any information obtained in the course of administering this Act,

except in the manner provided under this Act.

CHAPTER IV

OFFENCES AND PENALTIES

Penalty for neglect or refusal to supply particulars.

15. (1) Whoever, fails to produce any books of accounts, vouchers, documents or other business records or whoever neglects or refuses to fill in and supply the particulars required in any information schedule or return given or sent to him or whoever neglects or refuses to answer any question or inquiry addressed to him as may be required under or for the purposes of any provision of this Act and the rules made thereunder, shall be punishable with a fine which may extend to one thousand rupees or, in the case of a company, with a fine which may extend to five thousand rupees.

(2) The conviction of a person or company for an offence shall not relieve him or it of the obligations under sub-section (1) and if after the expiry of fourteen days from the date of conviction, he or it still fails to give the required particulars or continues to neglect or refuses to fill in and supply the particulars or to answer the question or inquiry, then he or it shall be punishable with a further fine which may extend to one thousand rupees or, in the case of a company, with a fine which may extend to five thousand rupees, for each day after the first during which the failure continues.

Penalty for making false statement.

16. Whoever, wilfully makes any false or misleading statement or material omission in any information schedule or return filled in or supplied, or in answer to any question asked to him under this Act or the rules made thereunder, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to one thousand rupees or, in the case of a company, with a fine which may extend to five thousand rupees or with both.

Penalty for mutilation or defacement of information schedule.

17. Whoever, destroys, defaces, removes, or mutilates any information schedule, form, or other document containing particulars collected under this Act or requesting any such particulars, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company with a fine which may extend to ten thousand rupees or with both.

Penalty for obstruction of employees.

18. Whoever, interferes with, hinders, or obstructs any employee in the exercise of any power or duty conferred by this Act, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company with a fine which may extend to ten thousand rupees or with both.

Penalty for other offences.

19. Whoever—

(a) acts in contravention of or fails to comply with any provision of this Act or any requirement imposed under this Act; or

(b) wilfully deceives or attempts to deceive any statistics officer or any agency or any employee thereof,

shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

Penalty for
failure to
carry out
duties and
functions
by
employees.

20. If any person employed in the execution of any duty or functions under this Act,—

- (a) omits without lawful excuse to carry out his duty, or knowingly makes any false declaration, statement or return; or
- (b) pretends performance of his duties or obtains or seeks to obtain information which he is not authorised to obtain; or
- (c) fails to keep inviolate the secrecy of the information gathered or entered in the information schedules collected pursuant to this Act and, except as permitted under this Act, divulges the contents of any schedule filled in or any information furnished by any informant under this Act,

shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

Penalty for
impersona-
tion of
employee.

21. Whoever, not being authorised to collect statistics under the provisions of this Act, by words, conduct or demeanor pretends that he is authorised to do so, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

General
penalty.

22. Whoever, commits an offence under this Act for which no penalty is prescribed elsewhere than in this Section, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

Offences
by
companies.

23. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this Section—

(a) "company" means anybody corporate and includes a firm or other association of individuals; and

(b) "Director", in relation to a firm, means a partner in the firm.

Cognizance of offences. **24.** No court shall take cognizance of any offence under this Act except on a complaint made by the appropriate Government or an officer authorised in this behalf by such appropriate Government or, as the case may be, the statistics officer, and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence punishable under this Act.

Sanction for prosecution for offence. **25.** No prosecution for an offence committed by any informant shall be instituted except by or with the sanction of the statistics officer, and no prosecution for an offence committed by persons other than informants shall be instituted except by or with the consent of the appropriate Government.

Power of court to try cases summarily. **26.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act shall be tried in a summary way by a Judicial Magistrate of the First Class or by a Metropolitan Magistrate and the provisions of Sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial :

2 of 1974.

Provided that when in the course of, a summary trial under this Section it appears to the Magistrate that the nature of the case is such that it is, for any reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

CHAPTER V

POWER IN RESPECT OF CORE STATISTICS

Power in respect of core statistics. **27.** Without prejudice to the provisions contained in this Act, the Central Government may, by notification in the Official Gazette, declare from time to time any subject for the collection of statistics of national importance as 'core statistics' and make such arrangement, as it may consider necessary, for regulating the collection and dissemination of statistics on the subject so declared.

CHAPTER VI

MISCELLANEOUS

Power to give directions. **28.** The Central Government may give directions to any State Government or Union Territory Administration or to any local Government that is to say Panchayats or Municipalities, as to the carrying into execution of this Act in the State or Union Territory or Panchayats or Municipalities, as the case may be.

Public
servants.

29. Any statistics officer and any person authorised for the collection of statistics or preparation of official statistics under the provisions of this Act shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860.

45 of 1860.

Bar of
jurisdiction.

30. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the appropriate Government or the statistics officer or the agency is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Protection
of action
taken in
good faith.

31. No suit or other legal proceedings shall lie against the appropriate Government or agency or any statistics officer or other officers or employees in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules or directions issued thereunder.

Overriding
effect.

32. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force except in relation to the conduct of human population census as per the directions, if any, issued under the Census Act, 1948.

37 of 1948.

Power to
make rules.

33. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may make rules under this Section for all or any of the following matters, namely :—

(a) principles for co-ordinating as effectively as possible to achieve the objectives of Section 3 including nomination and registration of statistics officers by the Central Government and also to avoid unnecessary duplication in the collection of statistics;

(b) the terms, conditions and safeguards under which any person or agency or company or organisation or association may be engaged by the appropriate Government for the purpose of collection of statistics under sub-section (3) of Section 4;

(c) principles for prescribing the form and manner in which the information may be required to be furnished;

(d) principles for prescribing the manner in which the right of access to documents and the right of entry conferred by Section 8 may be exercised; and

(e) any other matter which is to be or may be prescribed under this Act.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and
savings.

34. (1) The Collection of Statistics Act, 1953 is hereby repealed.

32 of 1953.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.

(3) All rules made under the said Act shall continue to be in force and operate till new rules are made under this Act.

552 Ex. Gaz.—1	552 Ex. Gaz.—1(A)
552 Ex. Gaz.—2	552 Ex. Gaz.—2(A)
552 Ex. Gaz.—3	552 Ex. Gaz.—3(A)
552 Ex. Gaz.—4	552 Ex. Gaz.—4(A)
552 Ex. Gaz.—5	552 Ex. Gaz.—5(A)
552 Ex. Gaz.—6	552 Ex. Gaz.—6(A)
552 Ex. Gaz.—7	552 Ex. Gaz.—7(A)
552 Ex. Gaz.—8	552 Ex. Gaz.—8(A)
552 Ex. Gaz.—9	552 Ex. Gaz.—9(A)
552 Ex. Gaz.—10	552 Ex. Gaz.—10(A)
552 Ex. Gaz.—11	552 Ex. Gaz.—11(A)
552 Ex. Gaz.—12	552 Ex. Gaz.—12(A)
552 Ex. Gaz.—13	552 Ex. Gaz.—13(A)
552 Ex. Gaz.—14	552 Ex. Gaz.—14(A)
552 Ex. Gaz.—15	552 Ex. Gaz.—15(A)
552 Ex. Gaz.—16	552 Ex. Gaz.—16(A)
552 Ex. Gaz.—17	552 Ex. Gaz.—17(A)
552 Ex. Gaz.—18	552 Ex. Gaz.—18(A)
552 Ex. Gaz.—19	552 Ex. Gaz.—19(A)
552 Ex. Gaz.—20	552 Ex. Gaz.—20(A)